

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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GREGORY BOYER, as Administrator  
of the Estate of Christine Boyer,  
and on his own behalf,

Plaintiff,

vs. Lead Case No. 20-CV-1123

ADVANCED CORRECTIONAL  
HEALTHCARE, INC., et al.,

Defendants.

---

GREGORY BOYER, as Administrator  
of the Estate of Christine Boyer,  
and on his own behalf,

Plaintiff,

vs. Case No. 22-CV-723

USA MEDICAL & PSYCHOLOGICAL  
STAFFING, et al.,

Defendants.

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Remote Zoom Deposition of HOMER D. VENTERS, M.D.

Witness Location: Port Washington, New York

Thursday, January 9, 2025

9:02 a.m. to 3:52 p.m.

with all parties appearing via Zoom Videoconference

Job No. 179598  
Stenographically Reported by  
Julie A. Poenitsch, RPR/RDR/CRC/CRR

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1 Remote Zoom Deposition of  
2 HOMER D. VENTERS, M.D., a witness in the  
3 above-entitled action, was taken at the instance of  
4 the Defendants, under and pursuant to the Federal  
5 Rules of Civil Procedure, and pursuant to Notice,  
6 before me, JULIE A. POENITSCH, RPR/RDR/CRC,  
7 Certified Realtime Reporter, and Notary Public in  
8 and for the State of Wisconsin, with all parties  
9 appearing via Zoom Videoconference, on the 9th day  
10 of January, 2025, commencing at 9:02 a.m. and  
11 concluding at 3:52 p.m.

## A P P E A R A N C E S

12 LOEVY & LOEVY, by  
13 Ms. Maria Makar  
14 311 North Aberdeen Street, Suite 3  
15 Chicago, Illinois 60607  
16 makar@loevy.com  
17 312-243-5900  
18 appeared via videoconference on behalf of the  
19 Plaintiff.

20 LEIB KNOTT GAYNOR LLC, by  
21 Messrs. Douglas S. Knott and  
22 Daniel Kafka  
23 219 North Milwaukee Street, Suite 710  
24 Milwaukee, Wisconsin 53202  
25 dknot@lkglaw.net  
dkafka@lkglaw.net  
414-276-2108  
appeared via videoconference on behalf of the  
Defendants ACH, Lisa Pisney, and Amber Fennigkoh.

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1 A P P E A R A N C E S C O N T I N U E D  
2 GERAGHTY, O'LOUGHLIN & KENNEY, P.A., by  
3 Mr. John Casserly  
4 30 East 7th Street, Suite 2750  
5 St. Paul, Minnesota 55101-1812  
6 casserly@goklawfirm.com  
7 651-291-1177  
8 appeared via videoconference on behalf of the  
9 Defendants USA Medical & Psychological Staffing,  
10 Jillian Bresnahan, Norman Johnson, Travis Schamber,  
11 and Wesley Harmston.

12 HANSEN REYNOLDS LLC, by  
13 Mr. Andrew A. Jones  
14 301 North Broadway, Suite 400  
15 Milwaukee, Wisconsin 53202  
16 ajones@hansenreynolds.com  
17 414-455-7676  
18 appeared via videoconference on behalf of the  
19 Defendants Monroe County Sheriff's Office, Stan  
20 Hendrickson, Danielle Warren, and Shasta Parker.

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(The original exhibits were attached to original transcript; electronic copies provided with transcript copies.)

## R E Q U E S T S

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## T R A N S C R I P T O F P R O C E E D I N G S

1 HOMER D. VENTERS, M.D., called as a  
2 witness herein by the Defendants, after having  
3 been first duly sworn, was examined and  
4 testified as follows:

## E X A M I N A T I O N

BY MR. KNOTT:

Q Good morning, sir. Could you please state your full name for the record?

A Homer Venters.

Q And you're a medical doctor; is that true?

A Yes.

Q And my understanding is you've given depositions in the past.

A Yes.

Q Approximately how many depositions, where you're sworn and have a court reporter in the room, do you think you've given?

A I would guess between 20 and 30, but I'm not positive.

Q And I was trying to exclude from that testimony in hearings or proceedings other than sort of litigation. Did I stumble on the right question there for you to answer that?

A Yes. Most of my work now is -- doesn't involve

2 (Pages 2 to 5)

Page 6

1 **depositions, it involves hearings as a monitor,**  
 2 **so that 20 to 30 is my estimate of the**  
 3 **depositions.**  
 4 Q And that would be in legal proceedings, like a  
 5 courtroom, personal injury proceedings?  
 6 A **I don't know about the personal injury**  
 7 **component of it, but all my work is**  
 8 **correctional health, so both the individual**  
 9 **case litigation and now most of my work as a**  
 10 **medical monitor, which involves testimony in**  
 11 **front of courts, it's all correctional health,**  
 12 **one way or the other.**  
 13 Q And at the end of your -- at the end of your  
 14 curriculum vitae, there is a list of prior  
 15 testimony and depositions. The first entry is  
 16 in 2015.  
 17 Were there -- I think you testified  
 18 in legal cases before then?  
 19 A **No, I don't believe so.**  
 20 Q Okay. And all of that was to get to the point  
 21 that you're familiar with the process and kind  
 22 of understand that we shouldn't speak over one  
 23 another. I'll try to do my best on that. If  
 24 you could do your best as well, I'd appreciate  
 25 it.

Page 7

1 A **Yes.**  
 2 Q And you're entitled to have a question that you  
 3 heard and understand, and if you would like  
 4 clarification or me to rephrase the question in  
 5 any way, please speak up, and I'll do so, okay?  
 6 A **Okay.**  
 7 Q If you proceed to answer the question, I, and  
 8 anybody who reads the transcript, is going to  
 9 assume that you understood the question. Is  
 10 that fair?  
 11 A **Yes.**  
 12 Q We're here to discuss your opinions in the  
 13 matter involving Christine Boyer and the Monroe  
 14 County Jail. You understand that?  
 15 A **Yes.**  
 16 Q And I've received a transcript -- or excuse me,  
 17 I've received your report. Does that  
 18 accurately and completely summarize your  
 19 opinions in the matter?  
 20 A **Yes, based on the information I've reviewed up**  
 21 **to this point.**  
 22 Q And the report, I think, is dated November 26  
 23 of 2024. Do you know if you've reviewed  
 24 anything since that time relevant to the case?  
 25 A **No, I don't believe so.**

Page 8

1 Q So the report is a summary of your final  
 2 opinions, and you're prepared to discuss them  
 3 today.  
 4 A **Yes. Just with a qualification I said that if**  
 5 **there was different information or other**  
 6 **information, it could change my opinions, but**  
 7 **certainly the report reflects my opinions as I**  
 8 **sit here today.**  
 9 MR. KNOTT: Ms. -- I think it's --  
 10 Maria, how do you pronounce your name? Makar?  
 11 MS. MAKAR: Makar.  
 12 MR. KNOTT: Say it again.  
 13 MS. MAKAR: Makar, like driving in my  
 14 car.  
 15 BY MR. KNOTT:  
 16 Q Dr. Venters, you met with Ms. Makar to prepare  
 17 for the deposition, I assume.  
 18 A **Yes.**  
 19 Q Can you tell me when you met with her to  
 20 discuss the deposition?  
 21 A **Yesterday.**  
 22 Q And was that via Zoom?  
 23 A **Yes.**  
 24 Q Did any other people other than you and  
 25 Ms. Makar participate in the Zoom conference?

Page 9

1 A **I don't believe so.**  
 2 Q Were you shown anything during your conference  
 3 with Ms. Makar yesterday?  
 4 A **No.**  
 5 Q In your report you state that your role is to  
 6 assess the adequacy of the care provided to  
 7 Ms. Boyer in the time she was detained and  
 8 leading up to the time of her death.  
 9 Is that what you understand your role  
 10 in the matter to be?  
 11 A **Yes.**  
 12 Q Were you assessed to -- were you asked to  
 13 assess the adequacy of anyone else's care other  
 14 than Ms. Boyer?  
 15 A **I was provided with additional records. There**  
 16 **are other people referenced in the report, and**  
 17 **so I did review other people's records to see**  
 18 **if any of the deficiencies or problems I found**  
 19 **with Ms. Boyer's care were present for those**  
 20 **other people.**  
 21 Q Is it your understanding that you received  
 22 complete medical files for inmates other  
 23 than -- excuse me, detainees other than  
 24 Ms. Boyer?  
 25 A **No. I think I explicitly say in my report that**

3 (Pages 6 to 9)

<p style="text-align: right;">Page 10</p> <p>1 the additional patients, the information I</p> <p>2 reviewed, was quite varied and incomplete.</p> <p>3 Sometimes it involved medical records;</p> <p>4 sometimes it didn't. So I think, as I say in</p> <p>5 my report, it's not my position or</p> <p>6 understanding that I have all the possible</p> <p>7 records for those people.</p> <p>8 Q Are all of the detainee patients about whom you</p> <p>9 have formed opinions named in your report?</p> <p>10 A I don't think I have any opinions about anybody</p> <p>11 that's not in the report. So I think that's --</p> <p>12 I'm answering yes to your question, I believe.</p> <p>13 There's no person that I've formed opinions</p> <p>14 about besides the people whose records I was</p> <p>15 provided.</p> <p>16 Q And were you provided records for detainee</p> <p>17 patients other than those that you've named in</p> <p>18 the report?</p> <p>19 A Yes. I believe I -- it would be helpful for me</p> <p>20 to look at this section of the report, because</p> <p>21 I'm quite clear with the language I use, but I</p> <p>22 believe I was presented with maybe 25 or 26</p> <p>23 files, but some of them were quite incomplete</p> <p>24 or didn't involve, for instance, anything</p> <p>25 except an autopsy report, or something like</p>	<p style="text-align: right;">Page 12</p> <p>1 see what was available. And as I say in the</p> <p>2 report, and I just said here, in some of those</p> <p>3 cases, I was able to discern some of the</p> <p>4 problems that I saw in Ms. Boyer's case.</p> <p>5 Q In any of those matters that you looked at, did</p> <p>6 you locate a COWS or CIWA standardized</p> <p>7 withdrawal monitoring tool?</p> <p>8 A I --</p> <p>9 MS. MAKAR: Objection. Outside the</p> <p>10 scope. Work product privilege.</p> <p>11 THE WITNESS: I don't recall.</p> <p>12 BY MR. KNOTT:</p> <p>13 Q And so you were -- we sent out a Notice Duces</p> <p>14 Tecum asking you to bring certain things to the</p> <p>15 deposition. Have you had an opportunity to</p> <p>16 review that?</p> <p>17 A Yes.</p> <p>18 Q And is there anything that you brought with you</p> <p>19 to the deposition responsive to the duces</p> <p>20 tecum?</p> <p>21 A No.</p> <p>22 Q And why is that?</p> <p>23 A I believe everything that's requested either is</p> <p>24 in my report, or my practice is also, with</p> <p>25 counsel, to have them send, for instance, an</p>
<p style="text-align: right;">Page 11</p> <p>1 that.</p> <p>2 And so I looked at all of those 26</p> <p>3 files, and based on what was in those files, I</p> <p>4 assessed whether or not any of the core</p> <p>5 problems or findings that were present in</p> <p>6 Ms. Boyer's case were apparent in these other</p> <p>7 cases.</p> <p>8 And so as I say in my report, many of</p> <p>9 these files were just incomplete or I couldn't</p> <p>10 form an opinion.</p> <p>11 Q Were there any files that you looked at and</p> <p>12 concluded that the care was adequate?</p> <p>13 MS. MAKAR: Objection. Form.</p> <p>14 THE WITNESS: I don't recall. I</p> <p>15 think I was going through with these, really,</p> <p>16 three things in mind and -- I don't recall as I</p> <p>17 sit here today.</p> <p>18 BY MR. KNOTT:</p> <p>19 Q Were you -- well, were you provided any lists</p> <p>20 of detainees whose files you would be</p> <p>21 reviewing?</p> <p>22 A No. I received a large collection of files.</p> <p>23 So it was a big collection of 25 or 26 people's</p> <p>24 names, and each one had an individual file.</p> <p>25 And so I opened each of those up to look and</p>	<p style="text-align: right;">Page 13</p> <p>1 invoice to you, since they have that.</p> <p>2 But I didn't see anything listed that</p> <p>3 was additional that wasn't either information</p> <p>4 that counsel provided to me or I had already</p> <p>5 sent to counsel so that they could provide that</p> <p>6 to you.</p> <p>7 MR. KNOTT: Maria, do you have an</p> <p>8 invoice for Dr. Venters?</p> <p>9 MS. MAKAR: I'll check. I believe</p> <p>10 so.</p> <p>11 BY MR. KNOTT:</p> <p>12 Q The request in the duces tecum was for an</p> <p>13 itemization of the hours spent and compensation</p> <p>14 to be paid for the witness's review and</p> <p>15 testimony in the case.</p> <p>16 Dr. Venters, does your invoice</p> <p>17 itemize the hours spent and compensation you've</p> <p>18 been paid?</p> <p>19 A Yes.</p> <p>20 Q I'd like that to be provided, please.</p> <p>21 Dr. Venters, do you, in the course of</p> <p>22 your preparation of your report, take notes on</p> <p>23 the files that you review?</p> <p>24 A The notes that I take are in a Word document</p> <p>25 that ultimately becomes the report itself, and</p>

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1 so my approach is to create a timeline of  
2 medical events and then build the report from  
3 there. I don't have a separate set of notes, a  
4 separate set of recordings or notes other than  
5 the report.

6 Q So your testimony is that as you sit here  
7 today, the only thing you could put your hands  
8 on, in terms of work product for the work that  
9 you've done on this matter, is the report dated  
10 November 26, 2024?

11 A Yes.

12 Q You said that you -- your process is to build a  
13 timeline. Did you do that in this case?

14 A Yes. There's a report -- part of the report  
15 where I review the medical records of the  
16 patient, in this case Ms. Boyer, and that would  
17 have been the first thing I would write in this  
18 document, and then I would go from there.

19 Q So there's a narrative description of the care.  
20 There is nothing I would describe as a  
21 timeline. Are you saying that you did not do a  
22 timeline in this case?

23 A Since you're asking me about my report, can I  
24 look at it?

25 Q Absolutely.

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1 A Okay. At the bottom of page 4, Section III is  
2 entitled "Timeline of Events."

3 Q And that's the reference to the timeline that  
4 you just made.

5 A Yes.

6 Q Okay. And I want to ask you more about how you  
7 received patient files.

8 In referencing page 4, your list of  
9 materials reviewed includes as the fourth  
10 bullet point on page 4 patient files from the  
11 subpoena, and it says, for 26 ACH patients  
12 outside Monroe County Jail. And that's 4,228  
13 pages.

14 Did you receive all 4,228 pages?

15 A I don't actually know as I sit here today. I  
16 received for each patient a file with their  
17 name on it, and I opened it up to look at  
18 medical records or to see what was there, with  
19 this lens that I already referenced, but I  
20 couldn't tell you right now as I sit here how  
21 many pages are in each of those.

22 Q And other than the -- so you received 26  
23 individual files for those detainees, if I  
24 understand correctly.

25 A Yes.

Page 16

1 Q And did you receive any other kind of index or  
2 identifier for those 26 patients?

3 A Not that I recall.

4 Q Is your practice to highlight electronically or  
5 flag in any way the files that you receive?

6 A No.

7 Q Doctor, I think that the Bates number range --  
8 and the reason I'm asking this question -- this  
9 Bates number range actually refers to more than  
10 40 patient files. And my question is whether  
11 you reviewed 4,000 pages of records for more  
12 than 40 patients or whether the records that  
13 you reviewed were actually selected for you to  
14 review.

15 A My best answer is that -- and I just counted  
16 this the other day -- there's a file of  
17 additional cases. And I just looked at that  
18 file, and it had 26 names in it, 25 or 26  
19 names, and so those are the files I opened.

20 I don't -- if there are -- I don't  
21 know if there are other cases, but those are  
22 the 26 that I received and that I looked at.

23 Q And how did you receive those records? Was it  
24 in a Dropbox-type link, or was it physically  
25 sent to you on a flash drive or something of

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1 that nature?

2 A No. I think everything I received in this case  
3 was through some sort of link, like a Dropbox  
4 or Box link.

5 Q I'm going to ask that you work with Ms. Makar  
6 to provide to us, via the same process, the  
7 materials that you reviewed in this case.  
8 Okay?

9 A Yes. That's not a problem, to work with her,  
10 since I would have received them from her, so  
11 yes.

12 MS. MAKAR: Doug, sorry to interrupt,  
13 but I just sent you the invoice. And you  
14 received the materials that we sent you along  
15 with Dr. Venters' report, correct?

16 MR. KNOTT: I'm sorry?

17 MS. MAKAR: You received the  
18 materials that we sent you along with  
19 Dr. Venters' report back in November, correct?  
20 MR. KNOTT: I'm not sure what you're  
21 referring to. I have the CV and the report.

22 MS. MAKAR: There was also a Hightail  
23 link with all of the materials.

24 MR. KNOTT: Okay. Well, it's been a  
25 bit, so if that's there, I appreciate it; and

5 (Pages 14 to 17)

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1 if not, I'll work with you to try to make sure  
2 that I have those.

3 MS. MAKAR: That should have the  
4 invoice, too, but just in case it doesn't, I  
5 just re-sent it.

6 BY MR. KNOTT:

7 Q And, Dr. Venters, from our discussion so far,  
8 my understanding is that with respect to those  
9 other patient files, you do not receive any  
10 sort of abstract or summary or even a few word  
11 description of the issue of those cases; is  
12 that true?

13 A **Not that I'm aware of. My process in this case**  
14 **was to look at this large file that had 26**  
15 **names, to open each of those, and then to**  
16 **proceed as I have outlined in my report.**

17 Q And appreciating that I may have received this  
18 information in November, but your report  
19 references medical records for Kenneth Wilson,  
20 Jennifer Lehman, and Larry Schmieder.

21 Do you know if you received and  
22 reviewed records for patients other than Boyer,  
23 the 26 patients referenced at bullet point  
24 four, and records for those three patients?

25 A **I'm just consulting my -- page 4 of my report.**

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1 **No, I believe that that's the sum**  
2 **total of records that I reviewed, with the**  
3 **qualification that some of the 26 people, I**  
4 **think, might not have had actual medical**  
5 **records.**

6 Q In that case, you received some jail-generated  
7 document pertaining to that patient, but you  
8 didn't receive medical records; is that fair?

9 MS. MAKAR: Objection. Form.

10 THE WITNESS: I think I even  
11 reference in my report, there was a patient for  
12 whom there was an autopsy report, but I don't  
13 think I saw any medical records.

14 So it was -- I was very careful in my  
15 report to say the type of information that I  
16 received for each person was quite variable,  
17 and so -- but in each case, there was a file  
18 with a person's name. I opened it up and  
19 reviewed what was there.

20 BY MR. KNOTT:

21 Q You are licensed in the state of New York,  
22 correct?

23 A **Yes.**

24 Q Do you hold a medical license in any other  
25 states?

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1 A **No.**

2 Q Do you currently have privileges at any health  
3 care facility?

4 A **No.**

5 Q How do you describe your current professional  
6 obligations?

7 A **I work primarily as a federal monitor of health**  
8 **care in jail and prison settings, but I'm a**  
9 **correctional health physician.**

10 Q Do you work through any kind of professional  
11 entity or corporation? Do you have a business  
12 that you -- that you contract through?

13 A **No. I work as an independent contractor.**

14 Q And so in addition to -- well, strike that.

15 You are not currently providing  
16 direct patient care in any capacity; is that  
17 true?

18 A **That is true.**

19 Q And your income is derived from being a monitor  
20 in certain cases, correct?

21 A **Yes. It would be in some form of working in**  
22 **correctional health, either as a monitor, or**  
23 **I'm also retained by law enforcement agencies**  
24 **to investigate, so not as a monitor, but to**  
25 **help law enforcement investigate health care**

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1 **issues behind bars, but all of that is -- and**  
2 **then this type of litigation work, but that's**  
3 **all as a correctional health, I guess you could**  
4 **call it, consultant.**

5 Q Are the instances in which you've been  
6 appointed as a monitor, an independent monitor  
7 for a correctional facility, are those all  
8 described in your curriculum vitae?

9 A **I believe so, yes.**

10 Q And then you said there are -- you consult with  
11 correctional facilities.

12 Do you have any current projects that  
13 you're working on, where you're consulting for  
14 correctional facilities?

15 A **No. And I maybe wasn't clear. It's usually**  
16 **for a law enforcement agency. So the U.S.**  
17 **Department of Justice has retained me as an**  
18 **expert in their investigations of jail and**  
19 **prison health care for a number of years, and**  
20 **several state attorneys general have also**  
21 **retained me in the same manner.**

22 Q And to the extent you've been retained by  
23 states' attorneys general, are those  
24 California, New York, and Illinois?

25 A **Yes.**

6 (Pages 18 to 21)



Page 22

1 Q Are those single projects for each of those  
2 states?

3 A In Illinois and California, yes, those were --  
4 those are each single projects. And I'm not  
5 sure they're done, but I haven't done much  
6 recently.

7 In New York, I'm not currently  
8 working, but I have worked on, I think, maybe  
9 two jail investigations there.

10 Q And are those -- and I'm generalizing with  
11 respect to your retention by attorneys  
12 general -- are those investigations of  
13 incidents? Are they more broad investigations?  
14 Can you -- I'm trying to walk a line between  
15 not being too specific, but also wanting to  
16 know what you're doing.

17 A I would say for all of the law enforcement  
18 work, it's generally -- my role is generally to  
19 look at the adequacy of the health care, and  
20 sometimes that involves looking at a specific  
21 event, but it usually involves looking a little  
22 more broadly at some of the major elements of  
23 care, not just one incident.

24 Q Have the projects that you did for the states  
25 resulted in written reports that are publicly

Page 24

1 Q Do you know how the Loevy firm came to find you  
2 to ask that you consult on this case?

3 A I had worked with them on another case earlier  
4 in the year, but as to the question of how they  
5 came to contact me for that case, I don't know.

6 Q Do you recall the attorney you were working  
7 with at the Loevy firm on the other case?

8 A I worked both with Maria Makar, who's here  
9 on this case, and with another attorney,  
10 Steve Weil, I believe. And that's true for  
11 both -- that's true for the case in the prior  
12 engagement.

13 Q And do you know where that -- where the  
14 relevant care took place in the other matter on  
15 which you're consulting with the Loevy firm?

16 A State prison.

17 Q Which state?

18 A Illinois.

19 Q Have you issued a written report in that case?

20 A Yes.

21 Q And was your conclusion that the care did not  
22 meet standards?

23 MS. MAKAR: Objection. That's under  
24 protective order.

25 MR. KNOTT: I find that hard to

Page 23

1 available?

2 A I don't believe so.

3 Q None of them have?

4 A Not that I'm aware of.

5 Q Can you tell me approximately what percentage  
6 of your income in the year 2023 was derived  
7 from consulting on legal cases for private  
8 litigants versus your work as a monitor and  
9 consultant?

10 A I don't know. I would guess 50/50, but I  
11 really don't know. I've never tallied that up.

12 Q And how about in 2024?

13 A Again, this is just a very gross estimate, but  
14 I would -- my estimate is that the monitoring  
15 would have been much more. Would have been  
16 probably 75 or 80 percent in 2024.

17 Q Was there a monitoring project in 2024 that  
18 absorbed more of your time?

19 A Well, I've added monitoring roles and decreased  
20 the amount of private litigation over the last  
21 several years. So one of the cases, I've been  
22 working on for maybe three or four years, but  
23 I've added subsequently other cases. So the  
24 monitoring has grown to take up most of my  
25 time.

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1 believe, Maria.

2 MS. MAKAR: Why?

3 MR. KNOTT: His report, his  
4 conclusions are under a protective order?

5 MS. MAKAR: It hasn't been -- it's  
6 not on the docket yet. We haven't reached that  
7 point yet.

8 MR. KNOTT: Well, I wasn't really  
9 asking for the paper. I was asking whether  
10 he --

11 BY MR. KNOTT:

12 Q Well, Doctor, to the extent that you formed  
13 opinions in that matter, my understanding is  
14 they've been reduced to a report, right?

15 A Yes.

16 Q And as you sit here today, is it your  
17 recollection of that case that you believe that  
18 certain standards were not met with respect to  
19 the care of the Loevy client?

20 A As I sit here today, my report, to the best of  
21 my recollection, did include findings or  
22 opinions about deficiencies in care; but to  
23 specifically say what they were or which  
24 specific standards I was concerned with, I  
25 would need to consult a report.

7 (Pages 22 to 25)

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1 Q Do you recall the inmate's name in that case?  
 2 A No.  
 3 Q Have you given a deposition?  
 4 A Yes.  
 5 Q When did you give a deposition?  
 6 A Sometime last year. I don't -- it would have  
 7 been in the second half of 2024 sometime.  
 8 Q And your report hasn't been filed?  
 9 A I don't know.  
 10 Q Do you remember the attorney who was in my role  
 11 and was asking you questions in that matter?  
 12 A No.  
 13 Q Doctor, can you tell me how many matters in  
 14 litigation or pre-litigation you have reviewed  
 15 this year or worked on this year? I mean 2024.  
 16 A I -- no, I don't know.  
 17 Q Is there a typical caseload that you carry, in  
 18 terms of matters in litigation?  
 19 A No.  
 20 Q You testified that you cut down on your -- on  
 21 your litigation caseload. Do you know what the  
 22 peak number of cases was before you cut down?  
 23 A If I said that -- I don't believe that's what I  
 24 said. I said most of my work, the work I do  
 25 now, is currently as a monitor. Many of the

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1 litigation cases might go on for years without  
 2 me doing any work. So I don't keep track. I'm  
 3 not sure if I would know how to keep track of  
 4 when the cases resolve or are done.  
 5 The thing I am aware of is how much  
 6 work do I do. And so the amount of work I do  
 7 on the litigation side shrunk -- has shrunk  
 8 over the last couple of years.  
 9 Q Doctor, do you have your CV with you, or do you  
 10 have access to it?  
 11 A Yes, I can pull it up.  
 12 Okay. I think I have my most recent  
 13 CV.  
 14 Q Is there some way, Doctor, for us to determine  
 15 the date of the CV?  
 16 A I -- the CV I have is -- I think the file  
 17 itself has a date of 5/2025. I'm just looking  
 18 at the -- I'm trying to look at the actual  
 19 document itself.  
 20 But May of 2025 is when I -- or of  
 21 2024, I apologize, is when I believe I last  
 22 updated it.  
 23 Q And in the CV that you're looking at, is there  
 24 a reference to the Illinois matter that you  
 25 were retained by the Loevy firm?

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1 A No, I don't believe so.  
 2 Q And you've given a deposition like this one in  
 3 that matter.  
 4 A Yes.  
 5 Q Is there a reason why it was not included in  
 6 your prior testimony and deposition testimony  
 7 that you provided to us?  
 8 A I don't think I've updated my CV since the  
 9 first few months of 2024. So the hearings --  
 10 the court hearings as a monitor, and if  
 11 there -- I think there might be one or two  
 12 depositions, those wouldn't be on there yet.  
 13 So I plan to update my CV in the coming month  
 14 or two.  
 15 Q Can you give me all the information you can  
 16 about the Illinois matter in which you've given  
 17 a deposition that's not on your disclosure?  
 18 A Sorry. What do you -- what type of information  
 19 are you -- you know.  
 20 Q You don't remember the patient -- the  
 21 detainee/patient/plaintiff's name, correct?  
 22 A Yes, not as I sit here today.  
 23 Q Do you remember the defendant entity?  
 24 A I believe it was a for-profit prison vendor,  
 25 and I think it may have been Wexford.

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1 Q And when did you give a deposition in that  
 2 matter?  
 3 A Sometime in the --  
 4 MS. MAKAR: Object to form.  
 5 THE WITNESS: As I just said a couple  
 6 minutes ago, I think in the second half of  
 7 2024.  
 8 BY MR. KNOTT:  
 9 Q Can you look on a calendar that's on the  
 10 computer in front of you to tell us when you  
 11 gave a deposition in that matter?  
 12 A I don't know if I would find it in my calendar  
 13 as well as -- I could search through my email,  
 14 if you want, while we're sitting here, to look  
 15 and see.  
 16 Q Maybe we'll do that when we take a break. I'm  
 17 going to make a note of it.  
 18 And can you tell me -- you said there  
 19 were one or two cases that you've given  
 20 depositions in that were not included on  
 21 your list of prior testimony on your  
 22 curriculum vitae.  
 23 Can you tell me anything about the  
 24 other one or two cases, if there are two cases,  
 25 in which you've given testimony that are not on

8 (Pages 26 to 29)



<p style="text-align: right;">Page 30</p> <p>1 your CV?</p> <p>2 <b>A No. I would need to go back and review my</b></p> <p>3 <b>records to see what depositions have happened</b></p> <p>4 <b>in the last eight months or so.</b></p> <p>5 Q And there's been a single matter in which</p> <p>6 you've worked with attorneys from the Loevy</p> <p>7 firm, correct?</p> <p>8 <b>A Aside from this one, I believe that's correct.</b></p> <p>9 Q Are you familiar with any of the attorneys</p> <p>10 other than Mr. Weil and Ms. Makar from the</p> <p>11 Loevy firm?</p> <p>12 <b>A Not that I'm aware of. It doesn't mean we</b></p> <p>13 <b>couldn't have crossed paths, just not that I'm</b></p> <p>14 <b>aware of.</b></p> <p>15 Q From the list we were given, it looks to me</p> <p>16 like you've given approaching 30 depositions in</p> <p>17 matters in civil litigation. Does that many</p> <p>18 sound about right?</p> <p>19 <b>A As I said at the outset, my guess would be 20</b></p> <p>20 <b>to 30. But I haven't added them up, so I</b></p> <p>21 <b>certainly wouldn't dispute that.</b></p> <p>22 Q Have you ever given a deposition in a matter in</p> <p>23 which you testified on behalf of a defendant?</p> <p>24 <b>A I believe one of the first depositions listed,</b></p> <p>25 <b>I wrote on my CV that I was representing the</b></p>	<p style="text-align: right;">Page 32</p> <p>1 <b>agreed to or settled conditions were being met.</b></p> <p>2 <b>And so I think Benjamin v. Horn, the</b></p> <p>3 <b>case, was probably settled years before I</b></p> <p>4 <b>became the medical director.</b></p> <p>5 Q And other than that reference in your CV,</p> <p>6 you've never given testimony on behalf of a</p> <p>7 correctional facility or individual health care</p> <p>8 provider who is accused of providing inadequate</p> <p>9 care. Is that true?</p> <p>10 MS. MAKAR: Objection. Form.</p> <p>11 THE WITNESS: I think that's correct.</p> <p>12 I think -- yes, I think that's correct.</p> <p>13 BY MR. KNOTT:</p> <p>14 Q Have you told attorneys on the defense side</p> <p>15 that you don't want to do that type of work on</p> <p>16 the defense side?</p> <p>17 <b>A No.</b></p> <p>18 Q Have you ever been retained to review a case on</p> <p>19 behalf of a facility or individual health care</p> <p>20 provider who is a defendant or potential</p> <p>21 defendant in litigation?</p> <p>22 <b>A Not that I'm aware of.</b></p> <p>23 Q But you were never asked to review on behalf of</p> <p>24 the defendant?</p> <p>25 <b>A I've been asked by a correctional system to</b></p>
<p style="text-align: right;">Page 31</p> <p>1 <b>defendant, Benjamin v. Horn. I'm actually not</b></p> <p>2 <b>sure legally what my title in the court was,</b></p> <p>3 <b>but I was the medical director for the jail and</b></p> <p>4 <b>was testifying about the adequacy of certain</b></p> <p>5 <b>elements of care.</b></p> <p>6 Q I've seen in prior testimony, you described</p> <p>7 that as acting as a fact witness. Is that</p> <p>8 what you were doing, to the best of your</p> <p>9 recollection?</p> <p>10 <b>A Well, that sounds like something a lawyer would</b></p> <p>11 <b>say. I don't know if I ever -- but as I said,</b></p> <p>12 <b>my -- I'll just repeat what I just told you,</b></p> <p>13 <b>which is that I was the medical director at the</b></p> <p>14 <b>time, testifying about the adequacy of the</b></p> <p>15 <b>care. So however that's interpreted legally,</b></p> <p>16 <b>I'm not going to dispute it. I'm just not --</b></p> <p>17 <b>that's kind of the end of my, like,</b></p> <p>18 <b>understanding of the classification.</b></p> <p>19 Q You were not a defendant in that case is my</p> <p>20 understanding.</p> <p>21 <b>A Correct.</b></p> <p>22 Q But people that worked underneath you were</p> <p>23 defendants in that case; is that correct?</p> <p>24 <b>A No. I think it was that there was a court --</b></p> <p>25 <b>some legal process about whether previously</b></p>	<p style="text-align: right;">Page 33</p> <p>1 <b>help them assess the adequacy of their care,</b></p> <p>2 <b>but I don't think that was in relation to a</b></p> <p>3 <b>specific case or a specific litigation area.</b></p> <p>4 Q When were you last in a role where you were</p> <p>5 providing direct patient care?</p> <p>6 <b>A It would have been in -- when I was at Rikers.</b></p> <p>7 <b>So I think I left in 2017, maybe. I would have</b></p> <p>8 <b>to consult my CV. But my last direct patient</b></p> <p>9 <b>care was there.</b></p> <p>10 Q Are you board certified in any field?</p> <p>11 <b>A Yes. I have -- my internal medicine</b></p> <p>12 <b>certification is through the NBPAS, the</b></p> <p>13 <b>National Board of Physicians and Surgeons.</b></p> <p>14 Q At one point you were certified by the American</p> <p>15 Board of Medical Specialties; is that true?</p> <p>16 <b>A No. I think I started with the ABIM, the</b></p> <p>17 <b>American Board of Internal Medicine, and then I</b></p> <p>18 <b>switched over to the NBPAS, probably with some</b></p> <p>19 <b>overlap.</b></p> <p>20 Q Is there a reason why you transitioned to that</p> <p>21 other -- the second organization?</p> <p>22 <b>A Yes. It seemed like people in medical</b></p> <p>23 <b>administration, public health, it was a little</b></p> <p>24 <b>bit better fit. So there was a couple-year</b></p> <p>25 <b>period where I had both, and then I just stuck</b></p>

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1 **with the NBPAS since then.**  
 2 Q The NBPAS does not require you to take exams in  
 3 order to maintain your certification; is that  
 4 true?  
 5 A **That's right. It's continuing medical**  
 6 **education.**  
 7 Q And do you know how many hours per year you're  
 8 required to take of continuing medical  
 9 education to maintain your board certification  
 10 with the NBPAS?  
 11 A **I don't.**  
 12 Q Do you know if the NBPAS requires a residency  
 13 in internal medicine in order to obtain a  
 14 certification in internal medicine?  
 15 A **I assume so. I have a residency in internal**  
 16 **medicine. I guess I assumed that, but I don't**  
 17 **actually know as I sit here today.**  
 18 Q Referencing your CV, Doctor, and the positions  
 19 described under Independent Correctional Health  
 20 Monitor, are each of the six positions listed  
 21 under "Monitor" paid positions?  
 22 A **Let's see. I am looking at them. Yes,**  
 23 **although some of these were short term. Like,**  
 24 **I think there's a date range in them. But I**  
 25 **was paid for each of those and am paid for**

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1 **those in the cases that are ongoing.**  
 2 Q And if I understand correctly, when you act as  
 3 a monitor, you do not provide direct patient  
 4 care.  
 5 A **That's correct.**  
 6 Q If I understand, a -- well, let me ask it  
 7 fresh.  
 8 Do you have any ongoing projects with  
 9 the United States Department of Justice?  
 10 A **I believe so, yes.**  
 11 Q And what generally are you doing for the U.S.  
 12 DOJ?  
 13 A **Helping them with assessing the adequacy of**  
 14 **health care in a jail setting.**  
 15 Q Are there particular jails you're looking at?  
 16 A **I'm -- I believe I have an agreement of**  
 17 **confidentiality with the Department of Justice,**  
 18 **so I'm happy to consult with them after this**  
 19 **and see if it's permissible, with that**  
 20 **protective order, to disclose that to you.**  
 21 Q Can I ask you, is it an investigation of an  
 22 incident, or is it consulting on policy?  
 23 A **I would say -- I don't -- all of the work I do**  
 24 **with law enforcement involves adequacy of**  
 25 **different types of care. And so usually that**

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1 **would involve more than just one incident.**  
 2 Q Have you ever been asked to review care at a  
 3 jail or prison in the state of Wisconsin?  
 4 A **I -- not that I recall, as I sit here today.**  
 5 Q And earlier you said that your last direct  
 6 patient care was while you were at Rikers.  
 7 Were you assigned to the infirmary at Rikers?  
 8 A **No. My role at Rikers was to see patients.**  
 9 **The only time I had a regular place that I**  
 10 **provided care was when I first started, where**  
 11 **there was one jail I would -- of the 15 jails,**  
 12 **where I would see patients with residents; but**  
 13 **then over time, I came to see patients for**  
 14 **specific reasons, but I never had, besides that**  
 15 **first year or so, an assigned place or time**  
 16 **where I saw patients.**  
 17 Q And that first year or so is when you were  
 18 acting as Deputy Medical Director for  
 19 Correctional Health Services, New York  
 20 Department of Health and Mental Hygiene?  
 21 A **Yes.**  
 22 Q And what was the facility that you were  
 23 assigned to?  
 24 A **Well, I wasn't really assigned to it, but I had**  
 25 **a regular time where I would try and at least**

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1 **have two days a week where I saw patients in**  
 2 **what's known as the prison barge, but it's the**  
 3 **letters VCBC, Vernon C. Baines, B-A-I-N-E-S.**  
 4 **It's the floating jail off the -- in the Bronx.**  
 5 Q And even as deputy medical director, you had  
 6 just two clinical days a week?  
 7 A **Yes.**  
 8 Q So there was never a time when you were hired  
 9 to staff a single facility full time, true?  
 10 A **True.**  
 11 Q Were you ever in a role as an on-call physician  
 12 for a correctional facility?  
 13 A **As a deputy medical director and medical**  
 14 **director, I took calls. We did not have --**  
 15 **because we had a large system, we had people --**  
 16 **I didn't have an assigned duty as an on-call**  
 17 **doctor, but I would regularly receive calls,**  
 18 **while I wasn't working, about patient care.**  
 19 Q And you said that you saw individual patients  
 20 through your time as chief medical officer.  
 21 What was the context in which you would see  
 22 individual patients if you were not assigned a  
 23 clinical day?  
 24 A **It increasingly became patients that were**  
 25 **either very sick or patients where there was**

10 (Pages 34 to 37)

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1 use of force or there was some circumstance  
2 that required -- where the line staff required  
3 help.

4 Q And were you responsible in 2015 through 2017  
5 for the supervision of the health care that was  
6 being provided at the Rikers facility?

7 A Yes. Rikers is an island that had most of the  
8 jails for New York City, but then in my role as  
9 medical director and then chief medical  
10 officer, that system is bigger than Rikers. It  
11 includes jails that are on Rikers Island and  
12 then three or four, depending on the year,  
13 jails in the boroughs off of the island.

14 Q And was there a hospital facility that was run  
15 by New York City for the jails?

16 A Not a hospital. We had an urgent care, which  
17 was a very limited place, on Rikers Island,  
18 where we could do basic emergency response if a  
19 patient was brought to us. But we never had a  
20 hospital in our system. We would send our  
21 patients to local hospitals, depending on the  
22 clinical status and other things.

23 Q And is it fair to say that the New York City  
24 jail facilities generally had infirmaries with  
25 inpatient or -- yeah, inpatient beds?

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1 A No. The use of the term "inpatient" has a very  
2 specific clinical threshold. And so I would  
3 say, in general, jail infirmaries are not  
4 inpatient beds by state definitions or Medicaid  
5 definitions. That was also -- that's true for  
6 the jail facility in New York City. There were  
7 two infirmaries, where patients who were below  
8 the level of needing an inpatient  
9 hospitalization might be, but we never had or I  
10 don't think would seek to have an inpatient  
11 level of care for patients. That's what the  
12 hospitals are for.

13 Q I understand. It was a misuse of the term.

14 Let me just talk about the two jails  
15 that are referenced in your CV when you were  
16 deputy medical director.

17 One of those was the Baines Center,  
18 that you described?

19 A That's one of the jails in the New York City  
20 system. It had no infirmary, though.

21 Q But in your CV, you say you directed and  
22 delivered health services in two jails.

23 One of those was the Baines Center;  
24 is that correct?

25 A Yes.

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1 Q And the other was what?

2 A There were several times where, for a short  
3 period of time, I would be providing care in  
4 one specific place.

5 So we had a circumstance in our  
6 infirmary where, for a short period of time, we  
7 in correctional health services became  
8 directly -- more directly involved in providing  
9 care. So during that time I worked in that  
10 facility.

11 I think there are other -- there are  
12 other jails where, for a short period of time,  
13 I would have been involved more directly than I  
14 was normally.

15 Q So can you identify the second jail that is  
16 referenced in your CV, or are you saying there  
17 was not two designated jails where you directed  
18 and delivered health services?

19 A What I'm saying is, I think there would have  
20 been more than two, but -- and this maybe is a  
21 point of clarity that I need to fix in my CV --  
22 I was never only assigned -- like, since I was  
23 the deputy medical director, I would spend time  
24 in facilities providing and directing care, but  
25 nobody was making that -- putting my name, for

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1 instance, onto the medical director, I don't  
2 know, organizational chart.

3 Q Well, let me approach it this way. What is the  
4 smallest correctional facility at which you  
5 provided direct patient care?

6 A I think that the west facility in Rikers Island  
7 had about 30 or 40 people. I think that the --  
8 it's a little -- I'm struggling because there  
9 are -- I provided direct patient care in every  
10 one of the jails, just not consistently.

11 So I, for instance, would respond to  
12 cases where a patient was injured in a use of  
13 force. I would provide care. That probably  
14 happened in every one of the jails.

15 And so the smallest, by number,  
16 facilities were the west facility and the  
17 infirmary, which could have had 30 to 50  
18 patients in the west facility and maybe 100  
19 patients in the infirmary.

20 Q And how many detainees are held in the west  
21 facility?

22 A I think it's just, as I said, 30 or 50.

23 Q And what's the role of the west facility in the  
24 system?

25 A People may be there getting screened for

11 (Pages 38 to 41)

<p style="text-align: right;">Page 42</p> <p>1 communicable diseases, or they could be</p> <p>2 there -- I think it's primarily people who are</p> <p>3 awaiting or getting screened for communicable</p> <p>4 diseases.</p> <p>5 Q Is the infirmary that you referenced referred</p> <p>6 to as the northern infirmary command?</p> <p>7 A Yes and no. My recollection is there were two</p> <p>8 pieces to the northern infirmary. Command One</p> <p>9 is a building. It's a regular, very old jail</p> <p>10 structure, and I guess I should have included</p> <p>11 that. That could have 30 to 100, maybe, people</p> <p>12 who are just incarcerated in old-style cells.</p> <p>13 And then next to it is the part of it</p> <p>14 that's the infirmary, which had, I don't recall</p> <p>15 as I sit here, but maybe about 100 patients.</p> <p>16 Q I read testimony in which you were asked about</p> <p>17 the smallest facilities at which you rendered</p> <p>18 patient care. And your answer was the NIC and</p> <p>19 the BCBC [sic]. Is that accurate?</p> <p>20 A I think what I just said kind of comports with</p> <p>21 that. I don't actually know the numbers of</p> <p>22 these places, but certainly VC, Vernon C.</p> <p>23 Baines Center, is a place where I consistently</p> <p>24 saw patients, and so that's a bigger -- or</p> <p>25 medium-size jail. And then the NIC infirmary</p>	<p style="text-align: right;">Page 44</p> <p>1 infirmary for the jails that were on -- for men</p> <p>2 that were detained on Rikers Island.</p> <p>3 Q And is it true that there was 24/7 staffing by</p> <p>4 physicians available at each of the Rikers</p> <p>5 Island facilities?</p> <p>6 A Not always. For -- some of the jails handled</p> <p>7 new admissions, and some did not, and so for</p> <p>8 jails where new admissions were coming in, we</p> <p>9 generally had 24/7 providers. And when I say</p> <p>10 "provider," I mean, as a technical term, a</p> <p>11 physician, a physician assistant, or a nurse</p> <p>12 practitioner, but there could have been times</p> <p>13 where jails that didn't do new admissions might</p> <p>14 not have a provider for a shift overnight.</p> <p>15 Q And the urgent care facility on the island was</p> <p>16 staffed, I assume, by providers 24/7?</p> <p>17 A Yes.</p> <p>18 Q And did the infirmaries have x-ray</p> <p>19 capabilities?</p> <p>20 A Plain x-ray was available on Rikers Island, not</p> <p>21 necessarily in the infirmary. There were a</p> <p>22 couple of ways, depending if it was a male or</p> <p>23 female patient, to obtain x-rays, but -- and</p> <p>24 for a while we did have some mobile x-ray</p> <p>25 units, but not physically inside the infirmary.</p>
<p style="text-align: right;">Page 43</p> <p>1 is smaller, and I also would have seen patients</p> <p>2 there.</p> <p>3 Q So during this time that you were deputy</p> <p>4 medical director, were you assigned to a</p> <p>5 particular jail primarily on those two clinic</p> <p>6 days?</p> <p>7 A No. I set that up on my own. The role didn't</p> <p>8 require dedicated clinical time.</p> <p>9 Q And the NIC infirmary had 100 beds in the</p> <p>10 infirmary itself; is that correct?</p> <p>11 A I think there might have been 100 people.</p> <p>12 There were all sorts of -- some of them, as I</p> <p>13 recall, were general population, beds for</p> <p>14 people with disability accommodation. And then</p> <p>15 a smaller number were for people with specific</p> <p>16 health problems.</p> <p>17 Q The Baines Center had about 800 detainees; is</p> <p>18 that accurate? Is that a good guess?</p> <p>19 A I don't actually recall. That doesn't sound</p> <p>20 far off, I just don't recall.</p> <p>21 Q And did it have a designated infirmary?</p> <p>22 A No.</p> <p>23 Q And the NIC, N-I-C, did have a designated</p> <p>24 infirmary; is that correct?</p> <p>25 A Basically, part of the NIC functioned as an</p>	<p style="text-align: right;">Page 45</p> <p>1 Q Did each of the facilities have EKG machines?</p> <p>2 A Yes. That's a basic requirement of a jail</p> <p>3 treatment room.</p> <p>4 Q And was there a pharmacy dedicated to the needs</p> <p>5 of the correctional facilities at Rikers?</p> <p>6 A Yes.</p> <p>7 Q And was that available 24/7?</p> <p>8 A I'm not sure. It depends what you mean by</p> <p>9 "pharmacy." People could get medications they</p> <p>10 needed 24 hours a day, seven days a week. The</p> <p>11 method by which they got those didn't always</p> <p>12 involve going to a separate place, a pharmacy.</p> <p>13 But people certainly had access to the</p> <p>14 medications they needed every day of the week,</p> <p>15 24 hours a day, or we would send them to the</p> <p>16 hospital if they didn't.</p> <p>17 Q Dr. Venters, were you ever terminated or let go</p> <p>18 from any of your positions?</p> <p>19 A No.</p> <p>20 MS. MAKAR: Doug, I need a break</p> <p>21 soon.</p> <p>22 MR. KNOTT: Okay. Just let me finish</p> <p>23 up a couple of topics, and I will -- it'll be</p> <p>24 within five minutes. Is that all right?</p> <p>25 MS. MAKAR: Sure. Thanks.</p>

<p style="text-align: right;">Page 46</p> <p>1 MR. KNOTT: Okay.</p> <p>2 BY MR. KNOTT:</p> <p>3 Q Community Oriented Correctional Health</p> <p>4 Services, it looks like you were president for</p> <p>5 three months. Is that accurate?</p> <p>6 <b>A I don't actually know how long I was president.</b></p> <p>7 <b>There was a time where I worked with COCHS, and</b></p> <p>8 <b>that was probably a year and a half, and part</b></p> <p>9 <b>of it I had a title, I can't remember, as a</b></p> <p>10 <b>fellow, and part of it I was the president.</b></p> <p>11 <b>And then when COVID hit, I moved on.</b></p> <p>12 <b>But it wasn't -- it didn't last as</b></p> <p>13 <b>long as either of us thought, the organization</b></p> <p>14 <b>or myself, because of COVID, really.</b></p> <p>15 Q Does the organization continue to exist?</p> <p>16 <b>A Yes, although they're mostly Medicare policy</b></p> <p>17 <b>now.</b></p> <p>18 Q At the time that you were affiliated with that</p> <p>19 organization, was it advocating certain</p> <p>20 policies related to correctional health care?</p> <p>21 <b>A Yes, primarily relating to oversight and use of</b></p> <p>22 <b>federal funds for people who are in jails and</b></p> <p>23 <b>how records are stored. And, yes, I think that</b></p> <p>24 <b>continues to be their kind of main area of</b></p> <p>25 <b>focus is the Medicaid waivers for use of</b></p>	<p style="text-align: right;">Page 48</p> <p>1 MR. KNOTT: Okay. We can take a</p> <p>2 break. It's 10:22. You want to come back at</p> <p>3 10:30?</p> <p>4 MS. MAKAR: Perfect. Thanks.</p> <p>5 (A recess was taken from 10:22 a.m.</p> <p>6 to 10:33 a.m.)</p> <p>7 MR. KNOTT: Okay. We can go back on</p> <p>8 the record.</p> <p>9 I just want to put on the record that</p> <p>10 during the break, I had an opportunity to talk</p> <p>11 with my paralegal, and the materials we</p> <p>12 received do not include any of the records that</p> <p>13 Dr. Venters reviewed.</p> <p>14 So I'm going to repeat and ask that</p> <p>15 you comply with the duces tecum, which was for</p> <p>16 the complete file and all the materials you</p> <p>17 reviewed. And in particular --</p> <p>18 MS. MAKAR: Doug, are you asking for</p> <p>19 us to, in addition to the list with all the</p> <p>20 Bates numbers, to give you the actual</p> <p>21 production that everyone has? Okay. That's</p> <p>22 just not our usual practice, to redistribute</p> <p>23 the production. Because the list has the</p> <p>24 production. So it was actually me who told my</p> <p>25 paralegal, you don't need to upload the entire</p>
<p style="text-align: right;">Page 47</p> <p>1 <b>federal funds in correctional settings.</b></p> <p>2 Q Just kind of extracting from what you just</p> <p>3 said, my guess is that it was advocating for</p> <p>4 use of federal funds to implement electronic</p> <p>5 medical records in correctional facilities. Is</p> <p>6 that accurate?</p> <p>7 <b>A No. Actually, the electronic medical record</b></p> <p>8 <b>work they did is old. It's kind of, I don't</b></p> <p>9 <b>know, probably 10 or 15 years old. But most of</b></p> <p>10 <b>their work in the last decade has been -- and</b></p> <p>11 <b>this has now come to fruition -- advocating for</b></p> <p>12 <b>states to be able to seek a waiver, because</b></p> <p>13 <b>it's prohibited, to seek a waiver so that they</b></p> <p>14 <b>can use funds to provide care to people in a</b></p> <p>15 <b>jail or a prison, all types of care, especially</b></p> <p>16 <b>as they're getting ready to go home.</b></p> <p>17 Q Did the U.S. Department of Justice or federal</p> <p>18 government take legal action against New York</p> <p>19 City for management of the health care in jails</p> <p>20 while you were working there?</p> <p>21 <b>A Not as relates to provision of care. There was</b></p> <p>22 <b>a civil rights investigation, which we provided</b></p> <p>23 <b>quite a bit of data for, on brutality, on</b></p> <p>24 <b>physical abuse of our patients.</b></p> <p>25 Q I understand.</p>	<p style="text-align: right;">Page 49</p> <p>1 production as long as you have the Bates</p> <p>2 numbers listed. And then everything that</p> <p>3 wasn't listed by Bates number, she uploaded to</p> <p>4 the Hightail link that came along with the</p> <p>5 report.</p> <p>6 But if you want -- if you want</p> <p>7 everything that has a Bates number, you know,</p> <p>8 physically emailed to you as well, we can do</p> <p>9 that.</p> <p>10 MR. KNOTT: I don't want to -- if</p> <p>11 that's your practice and that's what you</p> <p>12 thought you were doing, I don't know why you</p> <p>13 told me a few minutes ago that you had sent</p> <p>14 those earlier but --</p> <p>15 MS. MAKAR: Well, I didn't understand</p> <p>16 that you meant you wanted everything that had a</p> <p>17 Bates number re-sent to you. I meant that</p> <p>18 we -- we were just talking past each other.</p> <p>19 MR. KNOTT: Okay. It's actually</p> <p>20 broader than that. I want -- I want the files</p> <p>21 in the format that he received them, and I want</p> <p>22 any kind of correspondence that discusses these</p> <p>23 patients or lists them or anything like that.</p> <p>24 If there's a spreadsheet that lists these</p> <p>25 inmates and their Bates numbers, I need to</p>



<p style="text-align: right;">Page 50</p> <p>1 know.</p> <p>2 MS. MAKAR: Yeah.</p> <p>3 MR. KNOTT: If there's records that</p> <p>4 you sent to him, but he doesn't think they're</p> <p>5 pertinent, weren't referenced in the report, I</p> <p>6 need to know that.</p> <p>7 MS. MAKAR: Right. He just</p> <p>8 received -- he did not receive anything within</p> <p>9 the body of the email, didn't receive any</p> <p>10 discussion, any spreadsheet. He just received</p> <p>11 blank emails with attachments with the subpoena</p> <p>12 response. So we can forward those to you.</p> <p>13 That's fine. It just -- you know, I thought it</p> <p>14 would be duplicate work, and it's usually not</p> <p>15 my practice, but I'm happy to do that.</p> <p>16 MR. KNOTT: Well, in the context of,</p> <p>17 you know, him saying that he received it by</p> <p>18 Dropbox or something like that, it seems like</p> <p>19 it should be pretty simple to send the</p> <p>20 materials that were provided to him in the</p> <p>21 format that they were provided to him.</p> <p>22 MS. MAKAR: That's fine. I</p> <p>23 misinterpreted your rider, and I will do</p> <p>24 exactly what you just described.</p> <p>25 MR. KNOTT: For instance, Maria, he</p>	<p style="text-align: right;">Page 52</p> <p>1 <b>provided care.</b></p> <p>2 Q Do you know how many detainees are held at the</p> <p>3 Monroe County Jail, the capacity for that</p> <p>4 facility?</p> <p>5 A <b>No.</b></p> <p>6 Q Do you know what the health care budget was for</p> <p>7 the New York City jails when you were the chief</p> <p>8 medical officer?</p> <p>9 A <b>I do not.</b></p> <p>10 Q Would you agree with me that the -- well,</p> <p>11 strike that.</p> <p>12 So I've heard you reference a phrase</p> <p>13 "jail-attributable deaths." Is that a metric</p> <p>14 that you've coined for some of your work in</p> <p>15 assessing health care and mortality in jails</p> <p>16 and prisons?</p> <p>17 A <b>Yes.</b></p> <p>18 Q And my understanding is that you -- the</p> <p>19 reference to jail-attributable deaths is a</p> <p>20 reference to deaths in jail that you believe</p> <p>21 are the result of some preventable systemic or</p> <p>22 individual decision making?</p> <p>23 A <b>I don't know about decision making, but</b></p> <p>24 <b>certainly if a person dies behind bars and the</b></p> <p>25 <b>mortality review reveals information that</b></p>
<p style="text-align: right;">Page 51</p> <p>1 describes -- the report describes 4,000 pages</p> <p>2 of Gallagher Bassett materials and 26 patients,</p> <p>3 and the 4,000 pages are more than 26 patients.</p> <p>4 So I just need to know how those were conveyed</p> <p>5 to him.</p> <p>6 So I think we understand each other</p> <p>7 there.</p> <p>8 BY MR. KNOTT:</p> <p>9 Q Dr. Venters, I'm trying to get a handle on the</p> <p>10 nature of your practice in providing direct</p> <p>11 care in a correctional facility, and maybe I'll</p> <p>12 just approach it this way.</p> <p>13 Are you able to identify the jail or</p> <p>14 prison you've worked at that most closely</p> <p>15 approximates, in your opinion, the Monroe</p> <p>16 County Jail? Is that something you could do?</p> <p>17 A <b>No. I haven't undertaken a review of the scope</b></p> <p>18 <b>of practice or the clinical presentations of</b></p> <p>19 <b>patients. I haven't examined the physical</b></p> <p>20 <b>layout. So, no, the short answer is no. I</b></p> <p>21 <b>have provided care to a wide range of people</b></p> <p>22 <b>and patients, but I haven't undertaken an</b></p> <p>23 <b>assessment of the scope of practice or services</b></p> <p>24 <b>in the Monroe County Jail so that I could</b></p> <p>25 <b>compare that to a specific jail that I've</b></p>	<p style="text-align: right;">Page 53</p> <p>1 <b>includes information that indicates that the</b></p> <p>2 <b>patient did not receive the standard of care</b></p> <p>3 <b>and that something that happened, some</b></p> <p>4 <b>occurrence behind bars significantly led to</b></p> <p>5 <b>their death or made a significant contribution,</b></p> <p>6 <b>then those are cases that we would consider a</b></p> <p>7 <b>jail-attributable death.</b></p> <p>8 Q And there were jail-attributable deaths at the</p> <p>9 New York City jails while you were chief</p> <p>10 medical officer there, correct?</p> <p>11 A <b>Yes.</b></p> <p>12 Q And you've stated publicly that the number of</p> <p>13 jail-attributable deaths in the New York City</p> <p>14 jails while you were a medical director got as</p> <p>15 high as 50 percent of the deaths in the jail.</p> <p>16 Is that fair?</p> <p>17 A <b>I think there might have been a year where it</b></p> <p>18 <b>was very high, I think it was usually lower,</b></p> <p>19 <b>like 15 or 20 percent, but there was one -- at</b></p> <p>20 <b>least one year where we had quite a bit of</b></p> <p>21 <b>violence and lots of solitary confinement,</b></p> <p>22 <b>where we identified a large number, or a larger</b></p> <p>23 <b>percentage.</b></p> <p>24 Q So just so I understand that, taking all deaths</p> <p>25 of people in custody in the New York City</p>



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1 jails, it was typically -- did you say 10 to  
 2 15 percent of the deaths?  
 3 **A That's my recollection. I don't -- I haven't**  
 4 **kept those data, so -- but most years it was**  
 5 **much lower.**  
 6 **When we looked -- it doesn't mean**  
 7 **that there weren't areas that we needed to**  
 8 **improve, but the actual outcome of death being**  
 9 **attributable to something in the jail was**  
 10 **usually 15 or 20 percent is my best**  
 11 **recollection, maybe lower.**  
 12 **Q** And in your use of the phrase, that those  
 13 deaths were, in your opinion, preventable  
 14 deaths, correct?  
 15 **A Yes.**  
 16 **Q** And in certain years, the number of  
 17 jail-attributable deaths while you were acting  
 18 as medical director got as high as 50 percent;  
 19 is that true?  
 20 MS. MAKAR: Objection. Form.  
 21 THE WITNESS: I think it was one  
 22 year, and I -- and I was either the chief  
 23 medical officer or the medical director. I  
 24 don't recall.  
 25

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1 BY MR. KNOTT:  
 2 **Q** And do you feel like you have any personal  
 3 responsibility for those preventable deaths?  
 4 MS. MAKAR: Objection. Form.  
 5 THE WITNESS: I felt and continue to  
 6 feel like it was my responsibility to find  
 7 those problems and fix them.  
 8 BY MR. KNOTT:  
 9 **Q** There's a period of time between your  
 10 completion of undergrad and your start of  
 11 medical school.  
 12 Let me just ask, did you work in a  
 13 correctional setting in any regard during those  
 14 years?  
 15 **A No.**  
 16 **Q** And do you currently have any academic  
 17 positions?  
 18 **A I'm not sure what you mean. I have what's**  
 19 **essentially an adjunct position at the New York**  
 20 **University School of Global Public Health, but**  
 21 **that's a -- you know, adjunct means it's not a**  
 22 **paid position. I'm not a paid employee. I**  
 23 **provide little day-to-day role there.**  
 24 **Q** And you don't have an office there, for  
 25 instance?

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1 **A Correct.**  
 2 **Q** And you don't have regular teaching  
 3 responsibilities there, correct?  
 4 **A Correct.**  
 5 **Q** And is the College of Global Public Health a  
 6 medical school?  
 7 **A No.**  
 8 **Q** And your CV refers to you as an award-winning  
 9 epidemiologist. So what awards is that a  
 10 reference to?  
 11 **A I think one of them was in 2014. We conducted**  
 12 **an analysis of the link between solitary**  
 13 **confinement and self-harm. And that paper,**  
 14 **which was from records at Rikers Island, was**  
 15 **identified by the American Journal of Public**  
 16 **Health as the outstanding paper or publication**  
 17 **for the year.**  
 18 **Q** I represent a company called Advanced  
 19 Correctional Healthcare.  
 20 Have you encountered Advanced  
 21 Correctional Healthcare prior to this case?  
 22 **A Not that I recall.**  
 23 **Q** Are you familiar with anybody that works for or  
 24 has worked for Advanced Correctional  
 25 Healthcare?

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1 **A Not that I know of.**  
 2 **Q** Prior to your being named as an expert in the  
 3 case, there was a physician named Dr. Jeffrey  
 4 Keller, who testified on behalf of the  
 5 plaintiffs.  
 6 Are you familiar with Dr. Keller?  
 7 **A I'm not sure, actually, if we've met or if I**  
 8 **know him or not.**  
 9 **Q** Were you told why you were made a part of the  
 10 case?  
 11 **A No. I was told that somebody had been involved**  
 12 **in the case before me and was no longer part of**  
 13 **the case.**  
 14 **Q** Were you told why?  
 15 **A I don't -- no, I don't think so.**  
 16 **Q** And were you provided his deposition transcript  
 17 or any portions of the transcript?  
 18 **A No, I don't believe so. I certainly haven't**  
 19 **looked at anything that that physician did or**  
 20 **said.**  
 21 **Q** Were you told what he said in his report or in  
 22 his deposition?  
 23 **A No, I don't think so.**  
 24 **Q** There's a co-author on some of your papers by  
 25 the name of Keller. I assume that's not the

15 (Pages 54 to 57)

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1 same person.

2 **A No. That would be Alan Keller, who's a**

3 **physician who works at the Bellevue Program for**

4 **Survivors of Torture at Bellevue Hospital in**

5 **New York. So I assume that's not the same**

6 **person.**

7 **Q** When you identify deficiencies in your report,

8 what standard are you applying?

9 MS. MAKAR: Objection. Form.

10 THE WITNESS: I would apply my own

11 opinion about the standard of care in a jail

12 setting. And when it's relevant or applicable,

13 I would also apply the standards of the

14 National Commission on Correctional Health Care

15 for some of the areas where it's relevant.

16 BY MR. KNOTT:

17 **Q** Is it your opinion that the National Commission

18 on Correctional Health Care establishes the

19 standard of care on the topics it addresses?

20 **A I believe it's one source of standards. Many**

21 **of the parts of correctional health care that**

22 **are relevant to, say, a disease, for instance,**

23 **they wouldn't have any input on those**

24 **standards. So there it might be the**

25 **professional organizations or clinical**

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1 **standards of care that are more relevant.**

2 **Q** Have you -- strike that.

3 There is certification available for

4 correctional health care. You understand that.

5 **A I'm not sure what you mean by that. Do you**

6 **mean the accreditation that a facility can**

7 **seek?**

8 **Q** I think there's certifications for individual

9 health care providers, if we're not

10 communicating on it.

11 Anyway, you have not sought any

12 particular certification personally

13 specifically with respect to correctional

14 health care; is that true?

15 **A That's true.**

16 **Q** And there is accreditation of facilities

17 available through the NCCHC, correct?

18 **A Yes.**

19 **Q** Have you ever -- strike that.

20 Did any of the facilities for which

21 you were medical director or assistant medical

22 director or deputy medical director have NCCHC

23 accreditation?

24 **A I think we went through the process for one of**

25 **the facilities when I was at Rikers. Or when I**

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1 **was in the New York City jails.**

2 **Q** Which facility was that?

3 **A I think it was the Manhattan Detention Center,**

4 **if I recall correctly.**

5 **Q** And did you succeed in obtaining NCCHC

6 accreditation?

7 **A I believe so, yes.**

8 **Q** And did you attempt to obtain NCCHC

9 accreditation for any other facilities?

10 **A I don't think so.**

11 **Q** You have not taught courses for the NCCHC; is

12 that true?

13 **A I've provided talks at their request. I don't**

14 **know that they -- but that's all I can say, is**

15 **that they've invited me to give talks, but I'm**

16 **not sure how that compares to what you asked me**

17 **about.**

18 **Q** Okay. You referenced earlier that the -- that

19 you would apply the standard of care. What do

20 you mean by that?

21 MS. MAKAR: Objection. Calls for a

22 legal conclusion.

23 THE WITNESS: It means what I view as

24 the appropriate course of action for a specific

25 clinical scenario or clinical case.

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1 BY MR. KNOTT:

2 **Q** And if you assume the standard of care is what

3 a reasonably trained nurse would do under the

4 same or similar circumstances, do you feel

5 you're capable of speaking to the standard of

6 care of a nurse in general?

7 MS. MAKAR: Objection. Form.

8 THE WITNESS: Yes.

9 BY MR. KNOTT:

10 **Q** And what is the basis for your expertise in

11 nursing, such that you could speak to the

12 standard of care of a reasonable nurse?

13 **A In my role as a federal monitor, I am charged**

14 **by multiple federal courts with assessing the**

15 **adequacy of nursing care.**

16 **Also, in my prior role in the**

17 **New York City jails, I am -- I was in oversight**

18 **of adequacy of nursing policies and practices**

19 **and care, obviously in coordination with nurse**

20 **managers and other staff.**

21 **But that has been a core part of my**

22 **work in the jails and as a core part of the**

23 **responsibility that is currently asked of me or**

24 **given to me by federal courts.**

25 **Q** And to the extent that you supervise nurses at

16 (Pages 58 to 61)

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1 any time, you had directors of nursing that  
 2 reported to you, correct?  
 3 **A Certainly for quality assurance and policies,**  
 4 **yes, and for most day-to-day operations. But**  
 5 **in working in a clinic, there might have been**  
 6 **more direct interaction.**  
 7 **Q In terms of chain of command, you did not have**  
 8 **direct responsibility for supervising frontline**  
 9 **mobile nursing, true?**  
 10 **A I think that's largely true, yes.**  
 11 **Q And if you assume that the standard of care is**  
 12 **what a reasonable, similarly trained nurse**  
 13 **practitioner would do under the same or similar**  
 14 **circumstances, do you believe you're qualified**  
 15 **to speak to the standard of care of a nurse**  
 16 **practitioner?**  
 17 **A Yes.**  
 18 **Q And what provides the basis for you to speak to**  
 19 **the standard of care of a nurse practitioner?**  
 20 **A It would be very similar to what I just said**  
 21 **regarding nursing. It's been my responsibility**  
 22 **directly overseeing care, and also now as given**  
 23 **to me by federal courts, to assess the adequacy**  
 24 **of care provided by providers, which would**  
 25 **include physicians, nurse practitioners, and**

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1 **physician assistants.**  
 2 **Q You obviously have not received any formal**  
 3 **education in nursing, correct?**  
 4 **A That's correct.**  
 5 **Q You've not gone through the training that a**  
 6 **nurse practitioner goes through, correct?**  
 7 **A That's correct.**  
 8 **Q Both have licenses to practice that you do not**  
 9 **have, right?**  
 10 **A That is correct.**  
 11 **Q There are professional organizations for both**  
 12 **nurse practitioners and nurses. You're not a**  
 13 **member of any of those organizations, correct?**  
 14 **A That's correct.**  
 15 **Q You don't -- well, strike that.**  
 16 **You did not consult any treatise or**  
 17 **publication specific to nursing with respect to**  
 18 **your opinions in the case, true?**  
 19 **A Other than what I've referenced in my report,**  
 20 **there's nothing else I referred to as a**  
 21 **reference material for this case.**  
 22 **Q If I asked you to identify, like, a leading**  
 23 **treatise on basic nursing, you wouldn't be able**  
 24 **to do that, right?**  
 25 **A I don't know. As I sit here today, I'm not**

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1 **sure what you're asking, but I don't have any,**  
 2 **for instance, basics of nursing or what part**  
 3 **you're referring to. But, no, I don't have any**  
 4 **nursing textbooks or the names or titles of**  
 5 **them identified in my head.**  
 6 **Q If I were to ask you whether there's a standard**  
 7 **textbook that's followed in instruction of**  
 8 **nurse practitioners, you would not be able to**  
 9 **identify that, correct?**  
 10 **A No.**  
 11 **Q Have you ever testified in a case that an**  
 12 **individual nurse breached a standard of care?**  
 13 **A I believe so, yes.**  
 14 **Q Have you ever testified in a case that an**  
 15 **individual nurse practitioner breached a**  
 16 **standard of care?**  
 17 **A I believe so, yes.**  
 18 **Q Have you ever been excluded or precluded from**  
 19 **giving testimony in a case by ruling of a**  
 20 **Court?**  
 21 **A Not that I'm aware of. I don't -- I think**  
 22 **there might have been a case where a Court said**  
 23 **I should not provide security advice, if I**  
 24 **opined on, like, something a security staffer**  
 25 **did, but I'm not aware of any instance where a**

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1 **Court excluded medical opinions or assessment**  
 2 **of health care opinions.**  
 3 **Q There was a challenge to your qualifications to**  
 4 **give opinions about security staff?**  
 5 **A I don't actually know that there was a**  
 6 **challenge. I think a judge might have said,**  
 7 **Dr. Venters can opine on the health response,**  
 8 **but not what the security officers did, but I**  
 9 **don't actually recall.**  
 10 **Q And do you remember what state it was where**  
 11 **that lawsuit was venued?**  
 12 **A No. It was an immigration detention facility.**  
 13 **It was -- I don't recall. It must have been**  
 14 **five or six years ago, a few years ago.**  
 15 **Q I think I asked you whether there were ever --**  
 16 **whether there was any case in which your**  
 17 **testimony was actually excluded or precluded.**  
 18 **To your knowledge, has there ever**  
 19 **been a challenge by the other side to your**  
 20 **competency to testify to the standard of care**  
 21 **of a nurse?**  
 22 **A I don't know.**  
 23 **Q Same question with respect to a nurse**  
 24 **practitioner.**  
 25 **A Similarly, I don't know.**

17 (Pages 62 to 65)

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1 Q You reference in your report some training  
2 slides from ACH.  
3 Do you have specific criticisms of  
4 the manner in which Nurse Fennigkoh or  
5 Nurse Pisney were trained by ACH?  
6 **A The criticisms I have are the ones that are in**  
7 **the report, and so as I sit here today, I don't**  
8 **recall critique of the approach to training,**  
9 **but I would -- for any question, I would say if**  
10 **it's in -- the report includes the totality of**  
11 **my opinions as I have -- you know, as of today.**  
12 Q I need to know more specifically what your  
13 criticisms are. And is it fair to say that you  
14 don't know, substantively, what was taught to  
15 Nurse Fennigkoh in regard to her performance of  
16 duties at the Monroe County Jail?  
17 MS. MAKAR: Objection. Form.  
18 THE WITNESS: I've reviewed training  
19 slides. I'm not sure -- and I believe I've  
20 referenced in at least one area of the report  
21 training slides, but I'm not -- I don't recall  
22 reviewing other information about the approach  
23 to training.  
24 And so I'm happy to, for instance, do  
25 a word search of "training" in my report, if

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1 you want, but that's -- what's in my report  
2 reflects my opinions.  
3 BY MR. KNOTT:  
4 Q I'm trying to -- I understand you have  
5 criticisms of the practices. What I'm trying  
6 to understand is whether you have the basis for  
7 giving an opinion about the substance of the  
8 training that was provided --  
9 MS. MAKAR: Objection.  
10 BY MR. KNOTT:  
11 Q -- on that basis?  
12 **A And, again, the criticisms I have, which**  
13 **include at least one reference to slides that**  
14 **may be used in training, but other documents,**  
15 **which I don't know if they were used in**  
16 **training, such as policies or forms, those are**  
17 **the substance of my critique. And other -- I**  
18 **don't have other opinions that I haven't shared**  
19 **relating to training or the adequacy of**  
20 **training.**  
21 Q And my understanding from review of your  
22 report, is that to the extent you reference  
23 those slides, you are not critical of the  
24 content of those slides; is that fair?  
25 MS. MAKAR: Objection. Form.

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1 THE WITNESS: I would like to review  
2 my report, with your allowance.  
3 BY MR. KNOTT:  
4 Q Sure.  
5 **A I really see just two places where I reference**  
6 **training slides, and neither of them appears to**  
7 **be critical of the content.**  
8 Q I apologize, Doctor, but I'm getting a signal  
9 on my computer that it's going to log me off,  
10 so I have to send in a code or something here.  
11 With respect to the NCCHC,  
12 Dr. Venters, the NCCHC accredits -- it performs  
13 audits and accredits jails and prisons; is that  
14 correct?  
15 **A Yes.**  
16 Q Are you aware of whether a private correctional  
17 health care provider company can be subject to  
18 NCCHC accreditation?  
19 **A I am not.**  
20 Q Doctor, do you have a recollection of reviewing  
21 the contract between Advanced Correctional and  
22 Monroe County? And I'll say that I -- it's not  
23 specifically referenced in your materials  
24 reviewed list, but I have a recollection of  
25 seeing it in a larger group of the materials.

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1 But tell me if you --  
2 **A I don't recall. For this case, I was mostly**  
3 **focused on the clinical documents. So as I sit**  
4 **here today, I just don't recall.**  
5 Q Do you know how many nursing hours were  
6 contracted for in December of 2019?  
7 **A No.**  
8 Q Do you know how many medical staff hours were  
9 contracted for in 2019?  
10 **A No.**  
11 Q And I asked you whether you had served as a  
12 provider on call for any facility. And you  
13 said there were certain circumstances where you  
14 were; is that correct?  
15 **A Yes.**  
16 Q Was there ever a circumstance in where the  
17 conduit to the information that you received  
18 was the security staff?  
19 **A It could be somebody on the security side.**  
20 **Probably not the frontline security staff, but**  
21 **a security -- somebody on -- a senior person on**  
22 **the security side, like a warden or a**  
23 **supervising warden or commissioner might call**  
24 **me.**  
25 Q You understand that it's common practice in

18 (Pages 66 to 69)

Page 70

1 small jails in states like Wisconsin that there  
2 is not 24/7 staffing by nursing or physicians?

3 **A Yes.**

4 **Q** And you understand that there are jails in  
5 which the direct contact with the physician,  
6 when the nurses are not available, is the  
7 security staff? You understand that's a common  
8 practice, true?

9 MS. MAKAR: Objection. Form.

10 THE WITNESS: That is a practice I've  
11 encountered. I couldn't say how common or  
12 uncommon it is, but it's certainly something  
13 I'm familiar with it.

14 BY MR. KNOTT:

15 **Q** Are you critical of any jail that doesn't staff  
16 nursing 24/7?

17 **A No. Many of the places on the monitor are very**  
18 **small, and it's not a -- on its own, it's not**  
19 **something that I would be critical of.**

20 **Q** You reference certain emails in your report as  
21 evidence that financial considerations may  
22 enter into the medical decision making at the  
23 jail or may have entered into the decision  
24 making with respect to Ms. Boyer. Am I  
25 correct?

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1 **A I'm not sure you are. I referred to email**  
2 **communications, but I'd be happy to -- if you**  
3 **have a specific area, I'd like to look at it.**

4 **Q** Well, what I'm getting at is what basis you  
5 have, if any, to suggest that financial  
6 considerations entered into the care provided  
7 to Ms. Boyer.

8 **A Is there -- can you lead me to a point in my**  
9 **report that says what you just said I said?**

10 **Q** Well, I guess I'm trying to understand whether  
11 that is your opinion and whether the -- whether  
12 you have a basis for it, if you had that  
13 opinion.

14 So we can look through your report,  
15 but before we do so, is it part of your opinion  
16 that somebody was cost cutting, and that was a  
17 reason why Ms. Boyer allegedly did not receive  
18 adequate care?

19 MS. MAKAR: Objection. Form.

20 THE WITNESS: All right. So I  
21 will -- because you've used some very broad and  
22 definitive terms that I didn't use, and so I  
23 would like to refer to my report as the source  
24 of my opinions, as opposed to you assuming  
25 what's in my report.

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1 BY MR. KNOTT:

2 **Q** Okay.

3 **A And I see a sentence on page 24 at the top.**  
4 **I'm not sure if this is what you're referring**  
5 **to, but the sentence says, "Whether from cost**  
6 **concerns, or simply from lack of attention to**  
7 **the standard of care in correctional health,**  
8 **ACH did not ensure that patients who needed**  
9 **provider-level assessment, including during**  
10 **potential medical emergencies, received the**  
11 **standard of care."**

12 So that is an area where I had  
13 reviewed the emails, I think that you just  
14 referenced, and that is certainly very  
15 different than what you just postulated to be  
16 my opinion, which is evidence of the financial  
17 concerns being the cause or sole cause.

18 But that sentence in my report, I  
19 think, is a good approximate -- that's my  
20 opinion.

21 **Q** And can you take me there again? What page are  
22 you referring to? I think you said page 24.

23 **A Yes. The report I have at the top of page 24,**  
24 **the paragraph starts halfway down, maybe,**  
25 **page 23, but the concluding sentence, which is**

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1 near the top of page 24, says, "Whether from  
2 cost concerns, or simply from lack of attention  
3 to the standard of care in correctional  
4 health."

5 And then my conclusion there is that  
6 patients weren't receiving the standard of  
7 care. I didn't say there that it was  
8 definitive or I had evidence that it was simply  
9 because of financial concerns.

10 **Q** So the question I have, Doctor, is whether  
11 there's any basis, other than the emails you  
12 cite there, for an opinion that cost concerns  
13 may have impacted Ms. Boyer's care.

14 MS. MAKAR: Objection. Form.

15 THE WITNESS: The information that  
16 I've relied upon for the opinions that are in  
17 the report are cited there, and so I think that  
18 the report speaks for itself. And the emails,  
19 I believe, are the only area where cost or  
20 financial costs were being specifically  
21 mentioned.

22 BY MR. KNOTT:

23 **Q** So with all respect, your report -- I have your  
24 report, I've read your report, and I'm entitled  
25 to ask questions about the basis for the

19 (Pages 70 to 73)



<p style="text-align: right;">Page 74</p> <p>1 opinions expressed in the report, and saying</p> <p>2 that your opinions are in the report is not</p> <p>3 sufficient.</p> <p>4 So what I want to know is whether</p> <p>5 there is any basis, other than the emails you</p> <p>6 cite in that paragraph, for the statement that</p> <p>7 cost concerns may have entered into Ms. Boyer's</p> <p>8 care.</p> <p>9 MS. MAKAR: Objection. Form.</p> <p>10 Leading.</p> <p>11 THE WITNESS: I don't see in my</p> <p>12 report any reference to or reliance on</p> <p>13 information other than the emails.</p> <p>14 BY MR. KNOTT:</p> <p>15 Q And I'll represent to you that there were</p> <p>16 thousands of pages of email communications</p> <p>17 exchanged in this case.</p> <p>18 Were you provided any email exchanges</p> <p>19 other than those referenced in that paragraph?</p> <p>20 A <b>I don't recall.</b></p> <p>21 Q Did you ask to review any additional</p> <p>22 correspondence between Ms. Fennigkoh and</p> <p>23 Mr. Hendrickson?</p> <p>24 A <b>Not that I recall.</b></p> <p>25 Q You have no information about Advanced</p>	<p style="text-align: right;">Page 76</p> <p>1 <b>if there's any reference to -- it's not clear</b></p> <p>2 <b>from my review of these paragraphs if or how</b></p> <p>3 <b>that communication occurred.</b></p> <p>4 Q So you don't have any information to suggest</p> <p>5 that Ms. Pisney was ever advised of</p> <p>6 Ms. Fennigkoh's concerns, true?</p> <p>7 MS. MAKAR: Objection. Form.</p> <p>8 THE WITNESS: I don't believe I have</p> <p>9 any information that shows that that occurred.</p> <p>10 BY MR. KNOTT:</p> <p>11 Q And referring to the materials you reviewed, on</p> <p>12 page 4 there's a reference to ACH corporate</p> <p>13 policies and procedures. Do you see that?</p> <p>14 A <b>Yes.</b></p> <p>15 Q And was it your understanding that the document</p> <p>16 referenced there was a policy authored by</p> <p>17 Advanced Correctional and that it constitutes</p> <p>18 the entirety of their policies and procedures?</p> <p>19 A <b>I don't -- it was my understanding that these</b></p> <p>20 <b>are -- those are ACH policies. I don't know</b></p> <p>21 <b>and I didn't form an opinion about if they have</b></p> <p>22 <b>some other policies of a different scope, but</b></p> <p>23 <b>it was my understanding that those reflect ACH</b></p> <p>24 <b>policies.</b></p> <p>25 Q I'm going to put a document on the screen, but</p>
<p style="text-align: right;">Page 75</p> <p>1 Correctional Healthcare's financial condition;</p> <p>2 is that true?</p> <p>3 A <b>I don't believe I'm aware of that or have</b></p> <p>4 <b>reviewed anything -- any information like that.</b></p> <p>5 Q Well, my understanding is there is no written</p> <p>6 document, other than those emails, that you're</p> <p>7 referring to when you postulate the possibility</p> <p>8 that cost concerns entered into the care that</p> <p>9 Ms. Boyer was given.</p> <p>10 Am I correct in that understanding?</p> <p>11 A <b>I believe that is true. I'm just reviewing</b></p> <p>12 <b>those paragraphs. I'm not sure I can do that</b></p> <p>13 <b>all at this moment, to see whether or not</b></p> <p>14 <b>there's any reference to deposition testimony,</b></p> <p>15 <b>but it looks like in these paragraphs, the</b></p> <p>16 <b>quotations are just from the emails.</b></p> <p>17 Q Do you agree with me that saving the detainees</p> <p>18 from unnecessary charges is a valid concern for</p> <p>19 a correctional health care provider?</p> <p>20 A <b>Yes, it could be.</b></p> <p>21 Q Do you know -- strike that.</p> <p>22 Do you know whether Ms. Pisney was</p> <p>23 ever made aware of Ms. Fennigkoh's concerns, as</p> <p>24 expressed in those emails?</p> <p>25 A <b>I would need to review these paragraphs to see</b></p>	<p style="text-align: right;">Page 77</p> <p>1 let's just, for kind of housekeeping, I've been</p> <p>2 referencing your curriculum vitae, and I want</p> <p>3 to mark that as an exhibit for the deposition.</p> <p>4 MR. KNOTT: Pursuant to the</p> <p>5 conversation we had before the deposition</p> <p>6 started, what I'm going to do is provide those</p> <p>7 to the court reporter, along with the number of</p> <p>8 the next exhibit, and we'll make sure those are</p> <p>9 designated.</p> <p>10 Is that okay to everybody?</p> <p>11 MS. MAKAR: Yes.</p> <p>12 MR. KNOTT: Okay. And the reason we</p> <p>13 can't just -- I think that we have a continuous</p> <p>14 exhibit plan here, and I'm not sure what the</p> <p>15 next number is.</p> <p>16 BY MR. KNOTT:</p> <p>17 Q But at any rate, your CV that was provided to</p> <p>18 us and which we've been referencing, will be</p> <p>19 marked as an exhibit.</p> <p>20 Doctor, do you have -- well, do you</p> <p>21 have access to the document that was provided</p> <p>22 to you and described as ACH corporate policies</p> <p>23 and procedures?</p> <p>24 A <b>It may take me some time to find, because as I</b></p> <p>25 <b>recall, it's a very long -- there's, like,</b></p>



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1 **50 -- there's quite a few PDFs, and they don't**  
 2 **have titles. So do you have a Bates number?**  
 3 Q Hold on. I think I can share it with you.  
 4 And I'm putting up on the screen the  
 5 document. Am I sharing here?  
 6 A Yes.  
 7 Q Okay. I'm putting up on the screen a document  
 8 Bates numbered Monroe County 010071 and -72.  
 9 And that's the Bates referenced in  
 10 your list of materials reviewed, correct?  
 11 A I'm not disputing that. I'm just not sure.  
 12 Yeah, I'm not disputing that. I just don't --  
 13 I'm not sure where to see that.  
 14 Q Oh, the Bates?  
 15 A I see that, that that is the Monroe County  
 16 policy.  
 17 Q So in your materials reviewed, these pages are  
 18 described as ACH corporate policies and  
 19 procedures.  
 20 Did you write that description, or  
 21 was the file titled that?  
 22 A I don't recall. I recall that there was a file  
 23 that had the -- one PDF had the ACH policies,  
 24 and one had the Monroe County policies, and I  
 25 think I'm -- and that they're differently --

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1 they're also differently titled. Like, the  
 2 county policy is like this, has like a -- these  
 3 are basically copy-and-paste to the NCCHC  
 4 policies at J, and then that the ACH corporate  
 5 policies had like a -- just two numbers, like  
 6 0-1 or 1-2, but I don't recall the titles of  
 7 the files.  
 8 Q Okay. Well, can you tell me where you obtained  
 9 the information that's put in your report under  
 10 materials reviewed? Was that your conclusion,  
 11 or was it somebody else's conclusion?  
 12 A Is there a specific citation in the report,  
 13 like where I cite -- say something about a  
 14 policy that you're referring to?  
 15 Q Well, that's what I'm trying to dig into. So  
 16 what I'd like to know is whether you have any  
 17 criticism of an ACH written policy or practice.  
 18 And this is the only reference I have in terms  
 19 of materials reviewed. And so let's kind of  
 20 work through the process here.  
 21 I think you recognize that the  
 22 document on the screen is not an ACH corporate  
 23 policy or procedure, true?  
 24 A Yes.  
 25 Q And can you tell me -- and you can take your

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1 time to look through your report, I guess --  
 2 whether you have any criticism of an ACH  
 3 corporate policy or procedure, in terms of a  
 4 written document?  
 5 A Yes. I just pulled up on page 12 -- I recall  
 6 this also, the chest pain -- there's an ACH  
 7 chest pain protocol, which has these two -- the  
 8 01-01, I think. It's not a Monroe County.  
 9 It's a -- my recollection is it's an ACH  
 10 policy. And that it's deficient in the same  
 11 way that the form in Ms. Boyer's medical  
 12 records is deficient. And I explained that in  
 13 the report there, that the kind of lack of  
 14 guidance on EKG, oxygen, acute coronary  
 15 syndrome that's present in standard jail chest  
 16 pain protocols, which I reference both small  
 17 and large jail examples in my report, is  
 18 missing both from Ms. Boyer's records and also  
 19 from the ACH corporate policy that I reviewed,  
 20 which is, I think, labeled 01-01.  
 21 Q Well, again, I think this is the reason why we  
 22 need to have the files that were sent to you in  
 23 the native form, because the thing described as  
 24 ACH corporate policies, you'd agree with me  
 25 that the exhibit on your screen is not a --

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1 it's not what is being referenced on page 12,  
 2 correct?  
 3 A Yes, that's true. That's obviously -- and I do  
 4 elsewhere in the report reference the Monroe  
 5 County policies. But there, just on that  
 6 page 12, I see, you know, three different ACH  
 7 policies, which I think are identifiable by  
 8 their numbers, 01-01, 13-01, 17-01.  
 9 Q And what are you referencing to? Something not  
 10 up on the screen? Oh, you're referencing  
 11 page 12 of your report.  
 12 A Yes, page 12 of my report, where I say -- I  
 13 have a whole paragraph -- I have reviewed ACH  
 14 corporate policies. And then this paragraph  
 15 lists several policies and then has critique of  
 16 a couple of them and then also has the number  
 17 of the policy, as included in the policy  
 18 document.  
 19 Q Okay. So referencing, again, page 4, you agree  
 20 with me that the alleged corporate policies  
 21 that you're referencing on page 12 is not the  
 22 document that is described in your materials  
 23 reviewed, right?  
 24 A Yeah. That looks like a mistake, that that is  
 25 a reference to the Monroe County policy.

21 (Pages 78 to 81)

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1 Q And I don't see any other itemization in the  
2 materials you reviewed that would include  
3 either Monroe County policies or ACH corporate  
4 policies.

5 Do you see some source of those  
6 records?

7 **A Again, that just may -- that may be a mistake**  
8 **on my part, that I didn't list out the correct**  
9 **Bates numbers and maybe conflated -- it's very**  
10 **clear in the report. I say, distinctly, I**  
11 **reviewed county policies and I reviewed ACH**  
12 **policies, but I may have made a -- it sounds**  
13 **like -- it looks like I made a mistake in**  
14 **listing those, the details of listing those.**

15 Q Did you see reference in any of the deposition  
16 testimony to illness reports, jail illness  
17 reports?

18 **A Maybe, maybe, but I'm not sure what you**  
19 **specifically are asking me.**

20 Q Well, I'm asking you what do you understand the  
21 document you reference as chest pain protocol  
22 01-01 to be?

23 **A Well, in my report, I say, "The corporate**  
24 **policies have a chest pain protocol, 01-01."**  
25 **If you're asking for more information about the**

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1 **form, I'm happy to consult it, or you could**  
2 **show it to me, but my understanding is if a**  
3 **patient has an acute problem that involves**  
4 **chest pain, ACH has a protocolized form and**  
5 **policy for this specific issue.**

6 Q Is it your understanding that the Policy 01-01  
7 is directions to the physician or nurse  
8 practitioner on what to do in an instance of  
9 chest pain?

10 **A My understanding is that the nurse**  
11 **practitioners or physicians are usually not**  
12 **present. And so if they do see a patient, they**  
13 **may do a whole separate assessment and plan for**  
14 **the patient, but that this would be a protocol**  
15 **that's used by the nursing staff.**

16 Q Are you familiar with any circumstance in which  
17 a jail uses a form for the security staff to  
18 gather information in order to make a call to  
19 the provider?

20 **A Yes.**

21 Q What do you call those forms?

22 **A Well, it could be the same as this. The**  
23 **form -- when a patient has an acute complaint,**  
24 **a chest pain protocol could involve -- could be**  
25 **used by nursing or security staff in calling --**

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1 **gathering information and calling. It's no**  
2 **different than, let's say, a receiving**  
3 **screening that could be done by security staff**  
4 **or nursing staff, but that that happens before**  
5 **the providers are alerted.**

6 Q So your understanding of that type of form is  
7 that it is not directions on how the licensed  
8 provider will deal with the situation, correct?

9 **A Well, it could be. It certainly -- these chest**  
10 **pain protocols or acute illness protocols can**  
11 **be used by nursing or by security staff.**

12 Q So I think we have a common understanding.  
13 These protocols are used by security staff to  
14 gather information, or you believe by nursing  
15 staff to gather information, so that they can  
16 place a call to the physician, right?

17 MS. MAKAR: Objection. Form.

18 THE WITNESS: Or they can do very  
19 basic things, like call 911 or prevent a --  
20 basic lifesaving care, things like that.

21 BY MR. KNOTT:

22 Q And the form does not restrict the provider in  
23 their determinations on the next steps in  
24 response to the situation, true?

25 **A Yes.**

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1 Q Doctor, can any facility meet the standard of  
2 care, in your opinion, if it does not use the  
3 designated CIWA or COWS form?

4 **A There should be a standard -- I'm not sure.**  
5 **That's a very broad question. So if you are**  
6 **asking specifically for patients with potential**  
7 **alcohol or opiate or other types of withdrawal,**  
8 **the standard of care is to use either -- these**  
9 **two are the most common tool, but a**  
10 **standardized tool to track symptom severity.**

11 **And so that's the standard of care.**

12 **Without that -- this type of tool, the standard**  
13 **of care is not met.**

14 Q But you could envision a circumstance in which  
15 the monitoring is adequate, even though the  
16 facility doesn't employ one of those  
17 standardized forms.

18 MS. MAKAR: Objection. Form.

19 THE WITNESS: Only if the elements  
20 from those tools are included. And the most  
21 crucial part of these tools is that -- and this  
22 is why ASAM, the American Society of Addiction  
23 Medicine, and the NCCHC has endorsed these  
24 specific tools for a long time.

25 It's because these tools yield a

22 (Pages 82 to 85)

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1 score. And when that score -- and this is  
 2 absolutely required for facilities that don't  
 3 have providers on site -- when that score goes  
 4 up, security staff, nursing staff, they need to  
 5 know when an elevation in the score is a  
 6 problem, when it should resolve.  
 7 So I've never seen an assessment  
 8 tool, symptom severity tool, besides these  
 9 tools, that does that; but in theory, if you  
 10 took, you know, the ten things from the CIWA,  
 11 C-I-W-A, or the ten or 11 things from the COWS,  
 12 C-O-W-S, and you somehow use them differently,  
 13 but you came up with a score, and then you  
 14 showed your staff this is the score for mild,  
 15 moderate, severe, and told them what to do with  
 16 those numbers, then that could be adequate. I  
 17 just have never seen that.  
 18 BY MR. KNOTT:  
 19 Q You were given four depositions to review,  
 20 right?  
 21 A **I believe so. I'm not disputing that. I just**  
 22 **don't recall, as I sit here, if it was three or**  
 23 **four, but I reviewed several depositions, yes.**  
 24 Q And you didn't make any notes or summarize  
 25 those in any way, other than in your report?

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1 A **Correct.**  
 2 Q And given some confusion about what you were  
 3 provided, I want to ask and make sure I have an  
 4 understanding.  
 5 Were you provided a spreadsheet of  
 6 any type in reference to your work on this  
 7 case?  
 8 A **No. And I don't recall ever seeing a**  
 9 **spreadsheet of depositions or cases or anything**  
 10 **like that.**  
 11 THE WITNESS: And just a housekeeping  
 12 issue. If it's okay, in about a half hour, 45  
 13 minutes, I'd like to take a quick lunch break  
 14 of 15 or so minutes, if that's allowable.  
 15 If we're going to -- basically, if we  
 16 were going to go just another hour or two, then  
 17 I wouldn't need it; but if we're going to go  
 18 another three or four hours, then I guess I  
 19 would like to take a lunch break.  
 20 MR. KNOTT: We're going to go a  
 21 while, Doctor, so --  
 22 THE WITNESS: And, sorry, I have a  
 23 hard stop of five o'clock my time, four o'clock  
 24 Central.  
 25 MR. KNOTT: I understand that.

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1 BY MR. KNOTT:  
 2 Q So I think this is the final topic about what  
 3 you were given and what you reviewed, but at  
 4 page 26 of your report, you reference "Review  
 5 of Additional Cases Among Patients Under the  
 6 Care of ACH."  
 7 A **Yes.**  
 8 Q I just want to make sure that I understand,  
 9 that other than Ms. Boyer and those 26  
 10 additional cases that you reference there,  
 11 the only records you received are for Kenneth  
 12 Wilson, Jennifer Lehman, and Larry Schmieder;  
 13 is that correct?  
 14 MS. MAKAR: Objection. Form.  
 15 THE WITNESS: I believe that's  
 16 correct.  
 17 BY MR. KNOTT:  
 18 Q If there's some other set of records, then I'd  
 19 like to know it. I'm getting a little  
 20 concerned about knowing what the scope of --  
 21 MS. MAKAR: Okay. I don't know what  
 22 the confusion is. I'm going to send you  
 23 everything that's listed there, and we'll make  
 24 sure that it's all correct. I think he's  
 25 already answered these questions, but we will

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1 clear this up.  
 2 MR. KNOTT: Sorry about that. Well,  
 3 the problem is that I'm not sure that I have  
 4 complete information. So if -- and I'm  
 5 concerned about the list. So just if we could  
 6 get some clarification of that, I'd appreciate  
 7 it.  
 8 BY MR. KNOTT:  
 9 Q So, Dr. Venters, do you have an opinion on the  
 10 medical cause of Ms. Boyer's death, other than  
 11 what is reported in the autopsy report?  
 12 A **No.**  
 13 Q You reference in your report that she was  
 14 treated for an electrolyte imbalance. That's  
 15 something that you gained from looking at the  
 16 Gundersen health care records, correct?  
 17 A **That's my recollection, yes.**  
 18 Q Do you have any reason to disagree that her  
 19 cardiac arrest was likely secondary to an  
 20 electrolyte imbalance?  
 21 A **I would not offer an opinion. She had multiple**  
 22 **potential causes for cardiac stress, and so I**  
 23 **would -- electrolyte imbalance could be one of**  
 24 **them. There are multiple others. I simply**  
 25 **wouldn't provide an opinion about what I think**

23 (Pages 86 to 89)

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1 caused her heart strain or stress in her  
2 terminal period.

3 Q Do you have an opinion that she entered the  
4 jail with some sort of disease process in her  
5 lungs?

6 A I believe she reported, and I'd like to refer  
7 to my report --

8 Q Could you tell us what page?

9 A Yes. I'm just scrolling up. I'm looking -- I  
10 have a summary chart from page 14, where I just  
11 put in what was present on the medical  
12 screening and then what was in the medical  
13 note. And one of the things that was mentioned  
14 in the medical screening was asthma. Two other  
15 items that are relevant to the lungs involved  
16 cancer with chemo and radiotherapy, both of  
17 which can cause pulmonary changes and damage,  
18 and congestive heart failure, which causes  
19 often serious pulmonary congestion.

20 And so those are -- and then,  
21 obviously, alcohol intoxication. If withdrawal  
22 ensues, that can have pulmonary consequences,  
23 too; but the primary pulmonary issues that  
24 would have been relevant, based on what was  
25 reported, involved the asthma, the cancer

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1 treatment, and the congestive heart failure.

2 Q There was no active cancer treatment, right?

3 A Not that I'm aware of.

4 Q She did not have active cancer that you're  
5 aware of, correct?

6 A I don't know. Based on the records I reviewed,  
7 I feel confident saying she wasn't actively  
8 under treatment.

9 Q And you don't have any basis for an opinion  
10 that she had an acute exacerbation of her  
11 asthma condition on her entry to the jail on  
12 the 21st, true?

13 A I don't know. I don't recall her getting a  
14 peak flow, so I would say I don't have an  
15 opinion one way or the other.

16 Q I understand your criticism of the intake  
17 assessment and timeliness of the intake  
18 assessment. My question is whether you have an  
19 opinion that an acute condition was present on  
20 December 21, when she was being assessed.

21 A I don't know.

22 Q Ms. Boyer was intoxicated when she was brought  
23 to the jail?

24 A That's my understanding.

25 Q Do you have reason to think she was alcohol

Page 92

1 dependent?

2 A I have no idea.

3 Q You do not hold an opinion that Ms. Boyer  
4 experienced alcoholic withdrawal during the  
5 time that she was at the Monroe County Jail,  
6 true?

7 A Not true. We have no idea. She wasn't  
8 monitored for withdrawal.

9 Q So I understand that you have criticisms about  
10 the monitoring. My question is whether you  
11 have a basis for believing that she actually  
12 experienced withdrawal while she was at the  
13 jail.

14 A I think it's possible. I can't conclude  
15 definitively, but as I reference in my report,  
16 she had elevated blood pressures, which while  
17 that could simply be from high blood pressure  
18 or other health problems, it certainly is part  
19 of withdrawal in its more severe stages.

20 I also reference in my report that  
21 the mental health staff noted several -- they  
22 circled several things, I think that she had a  
23 labile mood, I can't remember what else, but  
24 certainly some of those things would have been  
25 consistent with withdrawal.

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1 They could be consistent with other  
2 things, so I can't definitively say, but it's  
3 certainly, based on the information I have  
4 reviewed, it is not possible to say that she  
5 didn't experience some withdrawal. And it  
6 could have been from benzodiazepines or alcohol  
7 or opiates, three different things, or that  
8 those could have been from one or all of those  
9 withdrawals.

10 Q So if I understand your response, you're not  
11 able to say to a reasonable degree of medical  
12 probability that Ms. Boyer experienced actual  
13 alcohol withdrawal during the time she was at  
14 the jail.

15 A Correct.

16 Q And you're not able to say to a reasonable  
17 degree of medical probability that she  
18 experienced withdrawal from benzodiazepines  
19 during the time she was at the jail.

20 A Correct.

21 Q And you're not able to say to a reasonable  
22 degree of medical probability that she  
23 experienced opiate withdrawal during the time  
24 she was at the jail.

25 A Correct.

24 (Pages 90 to 93)

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1 Q Ms. Boyer denied being dependent on alcohol at  
2 the time of her intake, correct?  
3 **A I believe so. I'm not disputing that. I just**  
4 **don't recall that specifically.**  
5 Q One of the questions that was asked was whether  
6 she had any concern for withdrawal, and she  
7 said no.  
8 MS. MAKAR: Objection. Form.  
9 THE WITNESS: Again, I'm not  
10 disputing that. I just don't recall it.  
11 BY MR. KNOTT:  
12 Q I'm going to share with you at this time the  
13 Intake Medical Screening Report, which we'll  
14 also mark as the third exhibit to the  
15 deposition.  
16 Can you see that, Doctor?  
17 **A Yes.**  
18 Q And is it legible to you?  
19 **A As legible as it is to you.**  
20 Q Okay. But the size is large enough that you  
21 can -- on your screen that you can read the  
22 page.  
23 **A Yes. I may have to -- yes, that's fine.**  
24 Q I'm offering, Doctor, to try to blow it up if  
25 you need it, but --

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1 **A I think it's okay.**  
2 Q Okay. Question 3 is, "Are you or will you be  
3 experiencing alcohol or drug withdrawal?"  
4 And the answer Ms. Boyer provided was  
5 "no," correct?  
6 **A Yes, I see that.**  
7 Q In your experience, are most alcohol or drug  
8 dependent arrestees truthful when they respond  
9 to that question?  
10 **A I don't -- this is asked in a way that strikes**  
11 **me as not very helpful. Most jail intake forms**  
12 **ask a different question, which is, have you**  
13 **ever experienced withdrawal before, and then go**  
14 **through various -- you know, whether it's**  
15 **security or nursing staff ask that.**  
16 **People who are intoxicated, by**  
17 **definition, aren't experiencing withdrawal.**  
18 **They're intoxicated. So this conflates two**  
19 **very different things.**  
20 **But I don't think I've ever asked**  
21 **people, are you -- you know, who aren't past**  
22 **the intoxication stage, are you experiencing**  
23 **withdrawal. So I don't know how to answer your**  
24 **question about this issue. But sometimes**  
25 **people report that they are using substances;**

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1 **sometimes they don't.**  
2 Q So the question wasn't -- I understand you have  
3 a criticism about the question that was asked.  
4 My question to you is whether, in your  
5 experience, people who suspect they may have  
6 withdrawals are motivated to be truthful in  
7 responding to this type of question.  
8 MS. MAKAR: Objection. Form.  
9 THE WITNESS: I think it's variable.  
10 That's my experience.  
11 BY MR. KNOTT:  
12 Q And are you aware that Ms. Boyer's husband  
13 testified that she's a social drinker and that  
14 he had never seen her drunk?  
15 **A I don't recall that, but I'm not disputing it.**  
16 Q And you agree that it is unlikely that she  
17 would experience alcoholic withdrawal if she,  
18 in fact, had never been intoxicated?  
19 **A I would agree that it's unlikely, if a person**  
20 **used alcohol for the first time, they**  
21 **wouldn't -- they'd be much less likely to**  
22 **experience withdrawal. However, there are**  
23 **people who are social drinkers who experience**  
24 **very serious withdrawal.**  
25 Q And by "social drinker," I mean he testified

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1 that she had a drink or more two to three  
2 nights per week.  
3 Is that type of person likely to  
4 experience alcohol withdrawal?  
5 **A I don't know. I think that if a person had**  
6 **serious health problems aside from withdrawal,**  
7 **then it could be; but when people drink**  
8 **alcohol, if they also have some other substance**  
9 **in their body or they have -- that precipitates**  
10 **similar withdrawal physiology, or if they have**  
11 **serious health problems, then certainly they**  
12 **could, as a social drinker, drinking a few**  
13 **drinks a few times a week, could experience**  
14 **withdrawal.**  
15 Q And Ms. Boyer never expressed concern of  
16 withdrawal to anyone at any time she was at the  
17 jail, true?  
18 MS. MAKAR: Objection. Form.  
19 THE WITNESS: I don't -- I didn't see  
20 any information where she said affirmatively,  
21 I'm experiencing withdrawal.  
22 BY MR. KNOTT:  
23 Q And she never told anyone that she was  
24 concerned that she may experience withdrawal.  
25 **A Correct.**

25 (Pages 94 to 97)



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1 Q Do you know whether Ms. Boyer was prescribed  
2 benzodiazepines in December of 2019?

3 **A I don't know.**

4 Q With the intake screening report back up on the  
5 screen, I want to ask you this question, and  
6 you can ask me to scroll through.

7 You agree with me that Ms. Boyer did  
8 not report that she was taking benzodiazepines  
9 to the people doing the intake assessment on  
10 the 21st.

11 **A I didn't see that on the intake assessment  
12 form.**

13 Q You agree that if Ms. Boyer did not report to  
14 Nurse Fennigkoh that she was -- had taken or  
15 was taking benzodiazepines, that Ms. Fennigkoh  
16 had no reason to suspect that she would have  
17 benzodiazepine withdrawal.

18 **A I agree with that.**

19 Q Do you know whether Ms. Boyer was prescribed  
20 opioids in December of 2019?

21 **A I don't. There's a reference to oxycodone use  
22 in a nursing note, but I don't recall  
23 specifically if she was prescribed anything.**

24 Q Is it important to you whether the drug, the  
25 opioid, is prescribed or whether it's being

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1 to me.

2 MR. KNOTT: All right.

3 THE WITNESS: Thank you.

4 (A recess was taken from 12:08 p.m.  
5 to 12:33 p.m.)

6 MR. KNOTT: We're back on the record,  
7 and we were just trying to discuss Dr. Venters'  
8 access to the files for the individual  
9 detainees that are referenced in his report.

10 And I'd just note for the record, and  
11 I understand it's on the way, but, Maria, we  
12 have not, as of now, received the email that  
13 you referenced your paralegal sending, so I  
14 haven't had a chance to access the actual files  
15 but --

16 MS. MAKAR: Yes. You have the Bates  
17 numbers for them, but if you aren't able to  
18 locate them yourself that way, she's about to  
19 send them via ShareFile. She is working as  
20 fast as she can.

21 MR. KNOTT: Okay. Well --

22 MS. MAKAR: We just usually don't do  
23 it that way with items that are Bates stamped,  
24 but now that we know that's how you want it,  
25 she's going as fast as she can.

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1 obtained off the street?

2 **A Well, in both circumstances, the patient needs  
3 to be monitored for withdrawal. The withdrawal  
4 could kill the patient, whether it's a  
5 prescribed or illicit use.**

6 **So from the standpoint of a jail  
7 health care service, we just want to start  
8 monitoring the patient for withdrawal.**

9 Q And do you have any information about whether  
10 opioids were found in Ms. Boyer's system when  
11 she was taken to the hospital?

12 **A I don't recall. I don't recall. I recall  
13 something besides alcohol being found, but I  
14 can't remember if it was benzodiazepines or  
15 opiates.**

16 MR. KNOTT: Okay. I think this would  
17 be a decent time to take that break that you  
18 requested.

19 MS. MAKAR: And, Doug, my paralegal  
20 is, you know, in the process of transferring  
21 everything and adding it to that Hightail link  
22 that you received in November.

23 MR. KNOTT: Okay. And I have 12:08.  
24 You want to reconvene at 12:30?

25 THE WITNESS: Yeah, that sounds good

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1 MR. KNOTT: Yeah. So I don't want to  
2 repeat myself, but I also don't want there to  
3 be an inaccurate record.

4 So, Maria, this report says that he  
5 reviewed -- that he was given 4,228 pages of  
6 patient files, and I know that those Bates  
7 numbers are from more than 26 patients. So  
8 either he found those 26 within that larger  
9 group, which I think he denied having done, or  
10 he was provided less than that set.

11 And we've also, I think, identified  
12 some other things that were -- that he obtained  
13 that aren't listed in the report. Which, I  
14 understand, it happens, but I just want to be  
15 clear in terms of my ability to know what he  
16 reviewed.

17 MS. MAKAR: I understand. That's why  
18 we're going to just make sure we send  
19 everything and, you know, do it that way,  
20 because it seems there might be a mistake on  
21 the list. I understand that.

22 And she's going to send it. I mean,  
23 we're not -- we're not disagreeing. So let's  
24 just move on to something where you don't need  
25 it, and she's about to send it.

26 (Pages 98 to 101)



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1 MR. KNOTT: Okay.  
 2 BY MR. KNOTT:  
 3 Q Dr. Venters, would you describe yourself as an  
 4 advocate for change in practices with respect  
 5 to correctional health care?  
 6 A I would say I'm an advocate for patient care,  
 7 improving patient care. That's certainly my  
 8 role as a federal monitor, is improving patient  
 9 care. I'm not sure -- sometimes that involves  
 10 changing things. Sometimes it involves  
 11 highlighting things that are, you know, going  
 12 well.  
 13 Q And I'm not being critical or trying to suggest  
 14 you're not independent. I'm just trying to --  
 15 I think you have a unique curriculum vitae, and  
 16 I'm wondering how you describe yourself in  
 17 terms of your goals -- your professional goals.  
 18 A It's to, honestly, assess and improve the  
 19 health care and health of people who are  
 20 incarcerated or detained.  
 21 Q And you have, since at least 2017, left the  
 22 practice of providing direct care, right?  
 23 A Yes.  
 24 Q And you were with a couple of organizations  
 25 that were -- that advocated for certain

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1 policies, right?  
 2 A Well, I think I've always -- I mean, when I was  
 3 with the Health and Hospitals Corporation or  
 4 the New York City Health Department, they  
 5 strongly advocated for policies. And when I  
 6 trained at Albert Einstein, they advocated for  
 7 health policies. I'm not sure I've ever been  
 8 part of an organization that doesn't promote,  
 9 you know, access to health or high-quality  
 10 health.  
 11 Q So you were Director of Programs for Physicians  
 12 for Human Rights.  
 13 A Yes.  
 14 Q That's certainly an advocacy group; would you  
 15 agree with that?  
 16 A There is -- a part of their role is advocating  
 17 for survivors of torture, but probably the  
 18 biggest part of the work is documenting. So  
 19 it's doing forensic examination, training  
 20 doctors and nurses, and training law  
 21 enforcement to document.  
 22 So my work in Iraq, my work with  
 23 people in Bangladesh who survived the, you  
 24 know, Myanmar experiences, revolved around  
 25 training doctors and nurses and law enforcement

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1 staff, how they can document physical injuries,  
 2 need for care among people.  
 3 Q So the process of monitoring a detainee for  
 4 drug or alcohol withdrawal involves initially  
 5 screening for that potential, correct?  
 6 A Yes.  
 7 Q And then it involves identifying the actual  
 8 withdrawal, right?  
 9 A Well, yes, there's an initial screening for the  
 10 potential for withdrawal, and then usually at  
 11 that time, time zero, there's an initial  
 12 withdrawal assessment done, and then that's  
 13 repeated every four to eight hours over time to  
 14 see if the score changes at all.  
 15 Q But you would not expect implementation of the  
 16 severity standard in someone who has not been  
 17 screened as having the potential for  
 18 withdrawal, correct?  
 19 A If there's no concern about withdrawal, so  
 20 there's no intoxication, there's no history of  
 21 withdrawal, nothing raises the concern about  
 22 withdrawal, then you wouldn't generally  
 23 initiate monitoring.  
 24 Q Is every detainee who comes into the jail  
 25 intoxicated considered as having the potential

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1 for withdrawal?  
 2 A I think generally, unless there's -- yes,  
 3 generally. So the guidelines from the  
 4 Department of Justice, from ASAM generally  
 5 teach us that when a person comes in, and  
 6 they're very intoxicated, certainly if they're  
 7 so intoxicated, they're impaired, we should  
 8 monitor them as if they might potentially enter  
 9 into withdrawal, especially for alcohol.  
 10 That's, I think, especially dangerous.  
 11 And then we can stop it when -- you  
 12 know, the next day or later on, when we're not  
 13 worried anymore. So generally, when a person  
 14 comes in and they're intoxicated, especially  
 15 with alcohol, we start monitoring, and then we  
 16 can stop it the next day or, you know, a couple  
 17 days later, if we're not worried.  
 18 Q But the actual COWS or CIWA device is not a  
 19 screening tool, correct?  
 20 A It actually, I think in a technical manner, you  
 21 are -- you know, it's kind of semantics,  
 22 because sometimes it is referred to as a  
 23 screening tool, because the actual diagnosis of  
 24 withdrawal, diagnosis of anything, is done by a  
 25 provider.

27 (Pages 102 to 105)

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1 So an NP, a PA, or a physician has to  
2 give a diagnosis. That can't be done by  
3 nursing or security staff. But most jail  
4 protocols have people identified -- and  
5 initially, they've received this tool, this  
6 screening tool, the monitoring tool, it's kind  
7 of an overlap, but that has to happen right  
8 away so you get a baseline score.

9 And it's a tool that's used -- you  
10 know, lots of small jails have correctional  
11 officers use this tool, not nurses. But I'm  
12 not -- I think it's a little bit semantic as to  
13 whether or not it's technically a screening or  
14 monitoring tool. The diagnosis comes from a  
15 provider, though.

16 Q So the mere fact that someone uses alcohol or  
17 reports using alcohol does not mandate that the  
18 COWS/CIWA monitoring tool be implemented, true?

19 MS. MAKAR: Objection. Form.

20 THE WITNESS: I guess it depends on  
21 how they answer questions like have they ever  
22 experienced withdrawal in the past, are there  
23 any concerns about withdrawal that are raised,  
24 but there are -- if a person is not intoxicated  
25 and they haven't had a drink in a long time and

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1 there's no concern that they're impaired, then  
2 those are circumstances where you credibly  
3 could say the patient doesn't really need to  
4 have monitoring started.

5 BY MR. KNOTT:

6 Q I'm concerned about the word -- the use of the  
7 word "impaired" there.

8 So there are detainees who come into  
9 the facility who are intoxicated at the time  
10 who can be screened out, in terms of potential  
11 for withdrawal; is that true?

12 A No. I think --

13 MS. MAKAR: Sorry. Objection. Form.  
14 Incomplete hypothetical.

15 THE WITNESS: I think people who come  
16 into a facility and are intoxicated and are  
17 thought to be intoxicated from alcohol, need  
18 initiation of monitoring, and then that  
19 initiation can be stopped.

20 You know, there are all sorts of  
21 guidelines for how to stop this and, you know,  
22 when to stop it, but certainly you need to  
23 start monitoring, because you have no idea,  
24 when a person is intoxicated with alcohol, what  
25 their real risks are for withdrawal.

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1 BY MR. KNOTT:

2 Q So regardless of how that person may answer the  
3 screening questions, the monitoring tool needs  
4 to be implemented, the CIWA/COWS monitoring  
5 tool.

6 A Well, for alcohol, it would be CIWA. And, yes,  
7 it should start and then can be discontinued  
8 once you have enough information to say you're  
9 not worried about withdrawal. Because the  
10 opposite way leads to preventable deaths.

11 Q Can you tell me what facts you've assumed with  
12 respect to the role of Nurse Fennigkoh?

13 A I'm not sure what the meaning of your question  
14 is. The nurse and nurse practitioner I've  
15 understood to be employees who worked in this  
16 facility. I'm not sure what specific other  
17 questions you have about the role.

18 Q Well, I'm asking about what you understand to  
19 be Nurse Fennigkoh's role with respect to her  
20 interactions with Ms. Boyer.

21 A Well, I will -- if it's okay -- I'm not -- I'm  
22 still not exactly clear, so I'm going to look  
23 in my report to see where I've referenced her,  
24 if that's acceptable.

25 So I first refer to her in my report

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1 on page 5, referring to a progress note that  
2 Nurse Fennigkoh put -- that's present from the  
3 medical records for Ms. Boyer. And so my  
4 understanding from that is that -- and my  
5 assumption is she's a nurse that's employed in  
6 the jail to provide care, and then -- and  
7 there's discussion in my report about the  
8 information she received and documented.

9 And then I reference another report,  
10 also by Nurse Fennigkoh, on page 6, which was a  
11 little bit later, on the 22nd of December, at  
12 four o'clock in the afternoon.

13 And so both of those references in my  
14 report assume that her role was as a nurse who  
15 was working in some form of patient care in the  
16 jail.

17 Q And if I ask you to discuss with me what you  
18 understand to be her interaction with Ms. Boyer  
19 on the 21st, are you able to do so?

20 A I'm looking at that reference there on page 5,  
21 leading into page 6, and it doesn't appear that  
22 she had a physical assessment or encounter with  
23 the patient, that this is information that was  
24 reported to her as she was leaving the  
25 facility, when a Tomah police officer related

28 (Pages 106 to 109)

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1 information to her.

2 Q So tell me what you mean by that. Are you  
3 saying that the note that she entered that day  
4 was related to her by the Tomah police officer?

5 A My report says a progress note by Registered  
6 Nurse Fennigkoh is present with a timestamp of  
7 2240 on December 21st, and the note reads. And  
8 then there's a quote that, from the note, says,  
9 "Leaving facility when Tomah PD officer stated,  
10 'I hope you're ready for a medical mess.'"

11 And so this part of my report  
12 includes both that information, and then also,  
13 later on, that the nurse found some loose pills  
14 in the patient's purse. And it says -- it  
15 concludes with, "RN fully explained the  
16 difficulty, as her pharmacy is not open  
17 Sundays." And so that explanation back to the  
18 patient.

19 Q What you were just doing there was reading and  
20 characterizing what you wrote in your report,  
21 correct?

22 A Yes.

23 Q And just tell me, you're not able to have a  
24 discussion with me based on a recollection of  
25 the role of Ms. Fennigkoh, right?

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1 A Correct. My recollection -- I'm able to  
2 represent and discuss what's in the report, but  
3 I don't have an independent recollection, for  
4 instance, of her assignment that day or what  
5 she was -- you know, what her overall  
6 assignment or role was.

7 Q And when we get to Nurse Pisney, would that be  
8 the same response, that you're able to recite  
9 what appears in your report with respect to her  
10 involvement, but you're not in a position to  
11 discuss, based on your own recollection of the  
12 records, what her role was?

13 A Well, I haven't -- I can't recite my report, to  
14 the extent I haven't memorized it, but it is  
15 true that my understanding of and impression of  
16 the interaction or role of these two staff in  
17 Ms. Boyer's care is in my report. I don't have  
18 a separate additional understanding.

19 Q I've put up on the screen the narrative  
20 progress note completed by Nurse Fennigkoh on  
21 the 21st and 22nd.

22 This is what you referenced in your  
23 report, correct?

24 A Yes, I see that.

25 Q And in the second line of the first note,

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1 Ms. Fennigkoh questioned Sergeant Warren if she  
2 felt the patient needed medical clearance, and  
3 Sergeant Warren indicated no, the patient has a  
4 long history of past medical concerns and is  
5 intoxicated.

6 Do you agree with me that that  
7 statement demonstrates that the possibility of  
8 obtaining medical clearance at a hospital was  
9 available?

10 A Yes.

11 Q It means that there was not -- there was not a  
12 policy against obtaining medical clearance.  
13 You agree with that?

14 A I don't know. I don't think it speaks to  
15 policy. I think that it references the  
16 potential for medical clearance to occur in  
17 some circumstance.

18 Q And Nurse Fennigkoh, along with Sergeant  
19 Warren, were engaged in a process of  
20 interviewing Ms. Boyer to determine whether she  
21 was appropriate for admission to the jail. Do  
22 you agree with that?

23 MS. MAKAR: Objection. Form.

24 THE WITNESS: I would agree that they  
25 were interviewing her. It's not really clear

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1 what the scope of the interview was. But I  
2 agree that they had both spoken with her or  
3 were speaking with her.

4 BY MR. KNOTT:

5 Q And Nurse Fennigkoh at least considered, during  
6 her interaction with Ms. Boyer, the possibility  
7 of sending her for medical clearance, true?

8 A I'm not sure that's true. I mean, what's in  
9 this note is that a law enforcement officer,  
10 who is not a health care professional at all,  
11 said this patient doesn't need medical  
12 clearance.

13 And then I don't see a review of  
14 whether or not medical clearance was really  
15 needed later on in the note. Normally, it  
16 would look much different than this, where a  
17 nurse does an objective collection of signs,  
18 symptoms. And then there's some sort of review  
19 near the end about is medical clearance needed  
20 or not, and what are the criteria?

21 Q You disagree with the decision and you disagree  
22 with the process, but you agree that  
23 Ms. Fennigkoh was exercising her judgment in  
24 determining whether she should obtain clearance  
25 versus admission to the jail. Do you agree

Page 114

1 with that?

2 **A No.**

3 MS. MAKAR: Objection. Form.

4 BY MR. KNOTT:

5 Q Did you answer?

6 **A I disagree.**

7 Q And tell me why you disagree.

8 **A Well, what you've postulated is that she**

9 **reasoned on her own or evaluated somehow if**

10 **this patient needs medical clearance.**

11 **What's actually in this note is very**

12 **different. It's that a law enforcement officer**

13 **said no clearance is needed.**

14 **And then there's a review of lots of**

15 **things that really don't have much to do with**

16 **medical clearance, some with medications.**

17 **There's nowhere in here where -- what you just**

18 **referenced, which was the independent**

19 **decision-making assessment, you know, whether**

20 **or not the patient needs medical clearance from**

21 **the nurse's standpoint. I don't see that**

22 **documented here. I simply see the nurse**

23 **starting the note with a police officer says**

24 **this patient doesn't need medical clearance.**

25 Q Do you know what the plan was at the conclusion

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1 of this interaction?

2 MS. MAKAR: Objection. Form.

3 THE WITNESS: I'm just reading the

4 last part of this note.

5 I'm sorry. My experience as a doctor

6 is that the nurse would put what they are going

7 to do at the end of your note. So if you want

8 me to respond to your question, I would like to

9 look at the note. Is that okay?

10 BY MR. KNOTT:

11 Q Sure.

12 **A Okay. It looks like RN instructed jail staff**

13 **to alert NP of situation when able.**

14 Q Was a decision made to admit Ms. Boyer to the

15 jail?

16 **A She entered the jail. I'm not sure about the**

17 **decision, but I assume it was made, since she**

18 **continued into the jail.**

19 Q And do you have any understanding as to how

20 she -- or where she was housed?

21 **A I don't recall.**

22 Q Is it your opinion that there was some urgent

23 medical emergency that Ms. Boyer was

24 experiencing on the night of the 21st that

25 required immediate attention?

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1 **A I don't know. I think she required assessment**

2 **by a provider, an in-person assessment, and**

3 **it's unclear from the -- you know, as I**

4 **mentioned before, some of the important fact**

5 **information just wasn't gathered on the way in.**

6 **So I wouldn't definitively say I know**

7 **she was having this type of medical emergency**

8 **or that type, but as I say in my report, she**

9 **needed, as an absolute requirement, to be**

10 **assessed by a provider, given all of the**

11 **serious health problems she reported.**

12 Q But you're not able to state to a reasonable

13 degree of medical probability that she was

14 experiencing a medical emergency at the time of

15 her admission on December 21, true?

16 **A That's true.**

17 Q Was it reasonable to develop a plan to have the

18 husband bring in her medications and diagnosis

19 list?

20 **A That is not an acceptable plan as the only**

21 **plan. Certainly getting a medication list from**

22 **family is important, but it's another reason**

23 **why the patient needed a provider level of**

24 **assessment, because it's not a nurse's job to**

25 **figure out which health problems or which**

Page 117

1 **medications could be life sustaining or missing**

2 **the medications could be life threatening.**

3 Q Hold on for a second here.

4 At page 5 of your report, you

5 reference medications referred to in the

6 medication verification form, and you list

7 them. Are you with me?

8 **A I am scrolling. Yes, I see that.**

9 Q And one of the things you list there is

10 diazepam, which is a benzodiazepine, correct?

11 **A Yes.**

12 Q And what's your understanding as to the source

13 of information about diazepam?

14 **A I can't recall. As I recall, a pill of**

15 **benzodiazepine was found in her purse, and then**

16 **I can't recall if also a review of some -- a**

17 **called pharmacy yielded some information. I**

18 **don't actually know, as I sit here today, other**

19 **than that I recall that they found some sort of**

20 **benzodiazepine in her purse.**

21 Q Anything else you recall about the

22 benzodiazepine found in her purse?

23 **A No, not as I sit here.**

24 Q I'm going to share on the screen the medication

25 verification form that I think you're

30 (Pages 114 to 117)

Page 118

1 referencing in page 5.  
 2 You agree that it looks -- it looks  
 3 like that's what you were referencing?  
 4 **A Yes, I think so.**  
 5 **Q** And you agree that, actually, diazepam was not  
 6 identified on the medication verification form.  
 7 **A I see that.**  
 8 **Q** What is peak flow, Doctor?  
 9 **A It's a standard measurement patients use -- and**  
 10 **health care staff -- that patients use to**  
 11 **monitor how their asthma is doing. You just**  
 12 **breathe into a little plastic device, and it**  
 13 **gives you the strength of your, like, breath,**  
 14 **exhalation, moves a small plastic piece up, and**  
 15 **it gives you a number.**  
 16 **Q** Is it standard, used in every intake assessment  
 17 of a detainee?  
 18 **A For somebody with asthma, yes, absolutely.**  
 19 **Q** And did Ms. Boyer report on the 21st any  
 20 concern about her breathing?  
 21 **A No, but I have asthma noted on the form.**  
 22 **That's what would have triggered it, not**  
 23 **shortness of breath.**  
 24 **Q** Can you tell me when Nurse Pisney was initially  
 25 contacted about this patient? And tell me if

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1 it's just not something that you're familiar  
 2 with at this time.  
 3 **A I have not memorized that level of detail, but**  
 4 **I'm happy to consult my report to see. I have**  
 5 **her involvement detailed in the report.**  
 6 **Q** Is it important for you, in the formation of  
 7 your opinions, to know when Ms. Boyer initially  
 8 reported chest pain?  
 9 **A I think it's important in terms of whether or**  
 10 **not staff responded. So it's part of the**  
 11 **information I've reviewed.**  
 12 **Q** So the question was whether it's important for  
 13 you to know when she first reported chest pain.  
 14 **A Yes. And so I would say it's certainly**  
 15 **important for me to know when staff were**  
 16 **informed. She might have reported it to lots**  
 17 **of people, but when the health staff became**  
 18 **aware and the security staff became aware,**  
 19 **that's kind of where my focus starts.**  
 20 **Q** Okay. So when did Nurse Pisney become aware of  
 21 her reported chest pain?  
 22 **A I have in my report -- I just looked up Nurse**  
 23 **Practitioner Pisney -- on the 22nd, late on the**  
 24 **22nd, as the first time.**  
 25 **Q** What page are you referring to?

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1 **A Page 7. And it's where the jail illness report**  
 2 **is mentioned.**  
 3 **Q** And is it your understanding that her chest  
 4 pain persisted?  
 5 **A I'm just reading my report.**  
 6 **Q** Let me take you through it.  
 7 On page 7 -- and you can read it, if  
 8 you'd like -- but page 7, you say that the jail  
 9 illness report at 8:09 references chest pain,  
 10 correct?  
 11 **A Yes.**  
 12 **Q** And in the paragraph under the bulleted points  
 13 on page 7, the last sentence is, "No mention of  
 14 chest pain," in the -- in the note recorded at  
 15 8:52, correct?  
 16 **A Yes, I see that.**  
 17 **Q** Is it your understanding that she reported  
 18 chest pain at any time after 8:52?  
 19 **A I don't have a -- there's no documentation of**  
 20 **that.**  
 21 **Q** And you have no basis to believe that she was  
 22 continuing to experience chest pain after 8:52,  
 23 true?  
 24 MS. MAKAR: Objection. Form.  
 25 THE WITNESS: I would say I don't --

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1 I don't know how long it persisted after -- I  
 2 assume it didn't stop the second that first  
 3 note was entered, and so I don't know whether  
 4 it recurred or whether it continued after that.  
 5 BY MR. KNOTT:  
 6 **Q** Bear with me.  
 7 Do you know if the NCCHC standard on  
 8 intake assessment references vitals?  
 9 **A I don't recall as I sit here today.**  
 10 **Q** Do you know if it references peak flow?  
 11 **A Well, it wouldn't, because it doesn't -- I**  
 12 **don't think it contemplates that every person**  
 13 **has asthma, but -- so, yeah, I would say no,**  
 14 **it's for -- not that I recall.**  
 15 **Q** Do you know if it references getting a  
 16 pregnancy test?  
 17 **A I think that pregnancy status is referenced in**  
 18 **the jail standards, I don't recall where, but**  
 19 **everybody coming into a jail should have -- all**  
 20 **women should have their pregnancy status**  
 21 **checked.**  
 22 **I've actually never encountered a**  
 23 **jail that doesn't do that for everybody.**  
 24 **That's really a shocking finding.**  
 25 **Q** Do you agree with me that it's moot in this

31 (Pages 118 to 121)



Page 122

1 case, because Ms. Boyer was not pregnant?  
 2 MS. MAKAR: Objection. Form.  
 3 THE WITNESS: I don't have an opinion  
 4 about -- and I don't have any evidence to think  
 5 that the failure to check her pregnancy status  
 6 had anything to do with her death. I think  
 7 that's fair.  
 8 BY MR. KNOTT:  
 9 Q Okay. I want to talk to you for a minute about  
 10 Mr. Schmieder, who you reference on page 17 of  
 11 your report.  
 12 Do you have access to those records?  
 13 A Just a moment. I can -- I'm first going to  
 14 page 17 of my report.  
 15 Okay. I see the reference to him in  
 16 the report, and I will look for the medical  
 17 records.  
 18 Oh, I see. You know, I'm having  
 19 trouble looking at the medical records while  
 20 this camera is on because of the limit to the  
 21 number of USB ports, because I keep the medical  
 22 records on a secure drive.  
 23 So I can -- so I guess the short  
 24 answer is no, but I can -- if you show me  
 25 something, I'm happy to look at it; but

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1 otherwise, I have to either unplug my mouse,  
 2 which would kind of make it hard, or unplug the  
 3 camera, which, obviously, I don't want to do.  
 4 Q Well, it's hard, because I don't want it to be  
 5 a memory test, but --  
 6 A You have his medical records. You have access  
 7 to them. Can you show them to me, like you did  
 8 the other thing?  
 9 Q I have immediate access to a few pages, but let  
 10 me try to lead you through those.  
 11 MS. MAKAR: Jessie should have just  
 12 sent you everything. So it should be in your  
 13 in-box in a second, if it's not already.  
 14 BY MR. KNOTT:  
 15 Q So I've shared on the screen Mr. Schmieder's  
 16 intake medical screening report from June 30,  
 17 2016.  
 18 A I see that, yeah.  
 19 Q It's Monroe County Bates No. 002850 through  
 20 -52.  
 21 A Yes, I see that.  
 22 Q And I can scroll through it, if you'd like, but  
 23 you're critical of the facility and nursing  
 24 staff or the health care staff with respect to  
 25 this intake assessment.

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1 I have a difficult time talking to  
 2 you about this without having a common  
 3 understanding, but is it your opinion that he  
 4 had some acute condition?  
 5 A It's a little unclear. He has serious lung  
 6 disease, and I have written in my report that  
 7 he came in with lung disease requiring  
 8 supplemental oxygen, so pretty serious. And it  
 9 says there, actually, COPD, emphysema. That's  
 10 the, you know, red flag. And then down below,  
 11 in the medications, it just says a lot.  
 12 So this is really -- potentially, a  
 13 very complicated patient that, you know, if he  
 14 really needs oxygen, the level of his, like,  
 15 lung function should be figured out by a  
 16 provider to determine that he's, you know,  
 17 going to go to the right place or he's going to  
 18 get the right care.  
 19 Q And my question is whether you, reviewing this  
 20 document, have a basis for believing that he  
 21 had some acute, rather than chronic, condition.  
 22 A Well, he certainly -- just what you have right  
 23 there. His pulse is elevated, and his  
 24 breathing is fast, and his oxygen is, you know,  
 25 low, normal low.

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1 So just those things right there  
 2 should trigger an assessment by a provider.  
 3 It's not a nurse's or a security officer's job  
 4 to say a fast heart rate or a fast breathing  
 5 rate or that oxygen of 95 percent is okay.  
 6 It's not clear.  
 7 So I would say there's indication  
 8 that he had abnormal signs and symptoms and  
 9 that he had very serious lung disease, and  
 10 based on that, he needed to be seen by a  
 11 provider.  
 12 Q The reference range with respect to pulse  
 13 oximetry, O2 saturation, is what, Doctor?  
 14 A Well, it's very person-specific. So I would  
 15 say 94, 95 is probably the lower limit of  
 16 normal, but for patients with emphysema, COPD,  
 17 it's important to know what's their baseline.  
 18 So when a provider did an adequate assessment  
 19 of a patient, that's one thing they'd probably  
 20 ask, is, you know, what's your peak flow  
 21 normally, what's your O2 sat. normally, and how  
 22 are you on room air versus supplemental oxygen?  
 23 Q So what's the reference range for pulse?  
 24 A It is usually 60 to 100. I think that, you  
 25 know, when we think about -- again, for

32 (Pages 122 to 125)



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1 instance, when we look at withdrawal, patients  
 2 in withdrawal, we sometimes think about an 80  
 3 to 100, giving us a point if we're doing  
 4 withdrawal monitoring. And the respiratory  
 5 rate, again, is mildly elevated. So all of  
 6 these are mildly off.  
 7 Q What's the reference -- I apologize if I  
 8 interrupted.  
 9 What's the reference range for the  
 10 respiratory rate?  
 11 A Usually 16 to 20.  
 12 Q So this gentleman with COPD and emphysema has a  
 13 respiratory rate of 22 versus a normal of 20;  
 14 he has an O2 at 95, and you describe 94 or 95  
 15 as normal; and he has pulse of 101, with a  
 16 reference range of pulse of 80 to 100 being  
 17 normal. Am I understanding that correctly?  
 18 A Yes.  
 19 Q And, again, I understand that you have an  
 20 opinion that Mr. Schmieder was a complicated  
 21 patient with chronic conditions.  
 22 Do you have a basis for believing  
 23 that he had an acute condition requiring  
 24 emergent medical attention on June 30, 2016?  
 25 A I don't have an opinion that he was having a

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1 medical emergency.  
 2 Q And do you have enough recollection of this  
 3 patient to tell me what you mean when you say  
 4 he deteriorated over the final week of his  
 5 life?  
 6 A I'm reviewing my report, which says his records  
 7 show multiple phone contacts between custodial  
 8 staff and an off-site provider, that he  
 9 deteriorated over the final week of his life,  
 10 and that he was refusing medications, so -- but  
 11 I'm happy to look at any of those records. But  
 12 I don't have an independent recollection of the  
 13 records.  
 14 Q Are you familiar with any standards in the  
 15 state of Wisconsin for inmate health in jails?  
 16 A No.  
 17 Q Was it something you looked at?  
 18 A I don't -- no, I don't think so. I did review  
 19 a report by a state agency or investigator, but  
 20 I don't think I've reviewed any jail standards.  
 21 Q And the state report did not identify any flaws  
 22 in policies at the jail, true?  
 23 A My recollection is it had to do with medication  
 24 documentation. I don't -- as I sit here today,  
 25 I don't recall how it was phrased or framed.

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1 Q You wrote about Mr. Schmieder that he was  
 2 refusing his medications due to concerns over  
 3 being charged for them.  
 4 A I believe --  
 5 Q How do I find the source of that?  
 6 A I don't recall, as I sit here now, if it was in  
 7 the notes from a refusal form or in his  
 8 clinical encounter notes.  
 9 Q And this -- no one other than you looked at  
 10 Schmieder's records in order to reach that  
 11 conclusion; is that correct?  
 12 A I haven't relied on anybody else's opinions or  
 13 information, so this is my own assessment.  
 14 And if you want to take a quick  
 15 break, I can, like, log out, plug in my hard  
 16 drive, look at this, or I can review this at a  
 17 later time. Whatever works best.  
 18 Q I would like to know the source of some of this  
 19 factual information you put in your report, so  
 20 if that's what it takes, I think we should do  
 21 that. So why don't we take five minutes.  
 22 A Okay. And I'll be back in five minutes.  
 23 MR. KNOTT: Thank you.  
 24 (A recess was taken from 1:25 p.m. to  
 25 1:35 p.m.)

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1 BY MR. KNOTT:  
 2 Q So, Dr. Venters, while we were off the record,  
 3 you were able to replug in, and as I understand  
 4 it, you were able to obtain access to the  
 5 patient files, but you don't have time to get  
 6 through them to respond to questions that are  
 7 asked, right?  
 8 A Yeah. I was able to get into my hard drive.  
 9 There's, you know, numerous, numerous PDFs in  
 10 there, and so I wasn't, in the few minutes we  
 11 were off, I wasn't able to answer your  
 12 question.  
 13 So as I sit here today, I can't tell  
 14 you the specific note or citation for the --  
 15 what's in that sentence, that he had concerns  
 16 about being charged for medications.  
 17 Q Let me -- I need to be able to talk to you  
 18 about the factual basis for your opinions, and  
 19 you didn't flag these records in any way with  
 20 reference to the facts that you're putting in  
 21 your report about them, correct?  
 22 A Correct.  
 23 Q So if I asked you the source of the information  
 24 that he deteriorated over the final week of his  
 25 life, can you tell me that?

33 (Pages 126 to 129)

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1 **A Not as I sit here today. Again, I'm happy to**  
 2 **review the medical records, if you want to show**  
 3 **them to me, or -- yeah, I'm certainly happy to**  
 4 **do that, just as we just did with his intake.**  
 5 **Q And with respect to -- well, as I suspect you**  
 6 **know, because Mr. Schmieder's records are**  
 7 **available to you, there's 192 pages. So we're**  
 8 **not really able to look through that, and I**  
 9 **can't find a source for the facts that you're**  
 10 **putting in your report.**  
 11 **So if I ask you the source of the**  
 12 **information that he deteriorated over the final**  
 13 **week of his life, you're not in a position to**  
 14 **converse about that at this time, correct?**  
 15 **A I certainly have not memorized those 200 or so**  
 16 **pages, but I would be happy to, if there's a**  
 17 **specific question, find a page citation and**  
 18 **send it across later on.**  
 19 **Q I think I'd ask you to do that, with respect to**  
 20 **deteriorated over the final week of his life**  
 21 **and medications -- that he refused medications**  
 22 **due to concerns over being charged for them.**  
 23 **Let me -- maybe we could eliminate the latter.**  
 24 **Do you believe that Mr. Schmieder did**  
 25 **not have access to medications because he would**

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1 **be able -- because he would be asked to pay for**  
 2 **them?**  
 3 **A I actually don't know.**  
 4 **Q Do you know what the policy at the jail is in**  
 5 **that respect?**  
 6 **A I understand there's a policy that if people**  
 7 **can't pay for their medications, then they**  
 8 **would be provided to them.**  
 9 **Q And that is fairly widespread across the**  
 10 **country, is it not?**  
 11 **A I'm not sure I would say widespread. Jails --**  
 12 **it's different in prisons, but jails, more**  
 13 **often than not, in my experience, do not charge**  
 14 **people for their medications, because even**  
 15 **though there may be a policy to let people get**  
 16 **their medicines if they can't pay for it, those**  
 17 **extra steps lead some people to just simply not**  
 18 **get the medicine or stop taking it.**  
 19 **So it's my personal experience that**  
 20 **it's much more common that people not pay for**  
 21 **medicines in jail than it is that they do pay.**  
 22 **Q And you can't speculate about Mr. Schmieder's**  
 23 **motivation for refusing his medications that**  
 24 **were offered to him.**  
 25 **A I don't know anything other than what I've**

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1 **reported from his records, so I have no**  
 2 **independent knowledge of his motivations or**  
 3 **fears.**  
 4 **Q And I think I asked you whether he was**  
 5 **experiencing an emergency at the time of**  
 6 **intake. Do you believe he had an urgent**  
 7 **medical need at the time of intake?**  
 8 **A Absolutely. He was a patient who, it had been**  
 9 **written, was on a lot of medicine, with no**  
 10 **effort to say what all those medicines are. He**  
 11 **had -- his vitals, as we discussed, were**  
 12 **borderline abnormal, so a patient who could be**  
 13 **tipping into an emergency.**  
 14 **But COPD and emphysema are leading**  
 15 **causes of death. And particularly when**  
 16 **patients all of a sudden stop their medications**  
 17 **or there's confusion about their medications,**  
 18 **an urgent situation with a patient like this**  
 19 **can quickly become an emergency. So, yes, it**  
 20 **was urgent, absolutely urgent, that he be seen**  
 21 **by a provider based on his clinical**  
 22 **presentation.**  
 23 **Q And of course you can't talk about when his**  
 24 **medications were verified and started in**  
 25 **relation to his intake, correct?**

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1 **MS. MAKAR: Objection. Form.**  
 2 **THE WITNESS: I'm happy to review the**  
 3 **medical records, if you want me to.**  
 4 **BY MR. KNOTT:**  
 5 **Q There's no evidence that Mr. Schmieder felt his**  
 6 **care was inadequate, true?**  
 7 **MS. MAKAR: Objection. Form.**  
 8 **THE WITNESS: I don't have an opinion**  
 9 **one way or the other. I don't recall seeing a**  
 10 **grievance, for example, that he submitted.**  
 11 **BY MR. KNOTT:**  
 12 **Q I'm going to share with you a document Bates**  
 13 **labeled Monroe County 002853 from**  
 14 **Mr. Schmieder's record and point out to you**  
 15 **that this is a list of 14-day health and**  
 16 **physicals. And the only inmate not blocked out**  
 17 **on that page is Mr. Schmieder, and this**  
 18 **document indicates that he refused his**  
 19 **physical.**  
 20 **Does that impact your opinions in any**  
 21 **way?**  
 22 **A No.**  
 23 **Q Is it your opinion that his death could have**  
 24 **been prevented, or do you not have adequate**  
 25 **information to render that opinion?**

34 (Pages 130 to 133)

Page 134

- 1 **A I do not have adequate information to give an**  
 2 **opinion on that.**  
 3 Q I assume that if you believed his death was  
 4 preventable, you would have -- on your review  
 5 of these records, you would have entered that  
 6 into your report. Is that fair?  
 7 **A Certainly if I had reviewed adequate**  
 8 **information to make and come to that**  
 9 **conclusion, I would have put it in.**  
 10 Q Doctor, page 24 of your report, if you can turn  
 11 there.  
 12 **A Yes, I'm on page 24.**  
 13 Q And you wrote there that -- under -- in the  
 14 middle paragraph, the fourth line says, "I have  
 15 also asked for mortality reviews in other cases  
 16 of death among patients at Monroe County Jail  
 17 in the past decade and have not received any  
 18 such reports."  
 19 Can you tell me, did you -- who did  
 20 you ask?  
 21 **A Counsel at the beginning of the case, I asked,**  
 22 **are there mortality -- clinical mortality**  
 23 **reviews that I can review and was told there**  
 24 **weren't any that I could review.**  
 25 Q And were there any deaths at the jail that you

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- 1 could identify in the past decade that you  
 2 expected there to be mortality reviews?  
 3 **A Well, certainly the clinical mortality review**  
 4 **in this case, and then I don't recall if there**  
 5 **were other cases preceding or how many there**  
 6 **were.**  
 7 Q Can you identify any cases of medical-related  
 8 deaths at the jail in the decade prior to  
 9 Ms. Boyer's?  
 10 **A As I sit here today, I don't know what -- how**  
 11 **many people died beforehand. I think I**  
 12 **reference a couple of cases here in my report,**  
 13 **but I don't actually, as I sit here now, know**  
 14 **the names or the exact dates of when those**  
 15 **people died.**  
 16 Q Can you tell us what would have been learned in  
 17 a prior mortality review of a death at the jail  
 18 that would have impacted Ms. Boyer's care?  
 19 **A There are -- I mean, it's hard for me to**  
 20 **summarize in one response. I think that the**  
 21 **prior deaths -- a mortality review looks at the**  
 22 **patient's care, looks at the standard of care,**  
 23 **whether or not it's met, and it finds areas**  
 24 **that need to be addressed. And these are often**  
 25 **systemic problems.**

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- 1 **And so to the extent that prior cases**  
 2 **involved any of the kind of core deficiencies**  
 3 **in her case, so failure to do an adequate**  
 4 **intake assessment or get medical clearance,**  
 5 **failure to institute monitoring for withdrawal,**  
 6 **failure to respond to a medical emergency, if**  
 7 **those three things were present in prior cases,**  
 8 **then what should have happened is that the**  
 9 **clinical mortality review would pick that up,**  
 10 **use it as a fulcrum for improving workflows and**  
 11 **standards of care.**  
 12 **So that's the way this -- that's why**  
 13 **there's a requirement in almost every -- I just**  
 14 **haven't seen too many correctional centers that**  
 15 **don't do these clinical mortality reviews, but**  
 16 **my lens would be the deficiencies I see in her**  
 17 **case, were those present in the prior cases**  
 18 **where people died?**  
 19 Q And are you aware that under Wisconsin law,  
 20 deaths in jails are reported to the Department  
 21 of Corrections?  
 22 **A I'm not disputing that. I'm not sure I was**  
 23 **aware of that.**  
 24 Q And you're not aware of any -- you're not able  
 25 to converse with us today about any death at

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- 1 the Monroe County Jail that you feel is  
 2 factually similar to Ms. Boyer's circumstance.  
 3 MS. MAKAR: Objection. Form.  
 4 THE WITNESS: That's not at all what  
 5 I said. I'm happy to look at my report,  
 6 because I've referenced several prior deaths, I  
 7 think, in the Monroe County Jail. I just want  
 8 to -- and why the failure to provide -- to do  
 9 these mortality reviews is really relevant.  
 10 I'm just looking through -- so in  
 11 order to answer your question, I need to look  
 12 at the cases that I've referenced of prior  
 13 deaths.  
 14 Yeah, so there are two cases where  
 15 people died from suicide, Mr. Kenneth Wilson  
 16 and Ms. Jennifer Lehman. They're both on  
 17 page 34 of my report. And one of the really  
 18 important features of their cases that is also  
 19 part of my assessment in Ms. Boyer's case is  
 20 the lack of adequate withdrawal monitoring.  
 21 And that is something that should have been  
 22 picked up in a very basic mortality review, and  
 23 if it had been addressed, would have resulted  
 24 in increased medical monitoring for Ms. Boyer.  
 25

35 (Pages 134 to 137)

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1 BY MR. KNOTT:  
 2 Q We'll get to them.  
 3 In this discussion of mortality  
 4 reviews, you reference on page 25, Mr. Xiong,  
 5 X-I-O-N-G.  
 6 Are you capable of discussing  
 7 Mr. Xiong's circumstance with me?  
 8 **A I have his part of the report in front of me.**  
 9 Q You agree with me that the standard that you're  
 10 referencing with respect to mortality review is  
 11 procedure in the event of an inmate death?  
 12 **A Well, these are morbidity and mortality**  
 13 **reviews, so M&M, which is the standard term,**  
 14 **involves review of deaths and other serious**  
 15 **outcomes.**  
 16 **So, for instance -- so there are many**  
 17 **circumstances when somebody doesn't die, but**  
 18 **there's a serious problem. That kind of**  
 19 **medical term for this, M&M, is morbidity and**  
 20 **mortality for that reason.**  
 21 Q So the NCCHC standard on mortality reviews does  
 22 not reference reviews in the event of morbidity  
 23 short of mortality, true?  
 24 **A I would need to look -- they certainly**  
 25 **affirmatively say every death needs to be**

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1 **investigated. I would need to review as to**  
 2 **where and how they reference morbidity, like**  
 3 **sentinel events in critical cases.**  
 4 Q So if the standard JA10 is procedure in the  
 5 event of inmate death, then you would agree  
 6 that does not speak to some event short of  
 7 death, true?  
 8 **A True. It may be that critical incidents and**  
 9 **other events that are short of death, that**  
 10 **don't involve death, are referenced elsewhere.**  
 11 Q So is there some other source that you can cite  
 12 me to that says there's a standard that  
 13 requires review of the nature you're talking  
 14 about, of events short of mortality?  
 15 **A Well, I think that, first of all, my own**  
 16 **clinical practice and understanding of the**  
 17 **standard of care in jails is that when we have**  
 18 **a near miss, when there's a serious health**  
 19 **outcome, which would include any kind of delay**  
 20 **in emergency care, that that should trigger a**  
 21 **clinical review, and that could be under**  
 22 **quality assurance or quality improvement. It**  
 23 **also could be under M&M.**  
 24 Q You know from this discussion, Mr. Xiong didn't  
 25 die.

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1 **A Yes.**  
 2 Q Did you know that when you wrote the report?  
 3 **A I believe so, yes.**  
 4 Q And Mr. Xiong did not have any chronic medical  
 5 conditions at intake, true?  
 6 **A I don't recall his records off the top of my**  
 7 **head, but I'm certainly happy to review.**  
 8 Q His case did not involve any concern for  
 9 withdrawal.  
 10 **A Again, I don't recall his medical records as I**  
 11 **sit here today, but I'm not disputing that.**  
 12 Q And if you could do that review and let us know  
 13 any evidence that he suffered a significant  
 14 medical event or mortality, I'd appreciate you  
 15 doing so.  
 16 **A Well, just hold on there for a second. My**  
 17 **position in the report is that when a patient**  
 18 **has chest pain, and there's a delay in**  
 19 **response, there's no EKG done, that's a**  
 20 **significant medical event. I'm not looking at**  
 21 **the patient -- the reason these cases are so**  
 22 **important for improving our care, it's not that**  
 23 **the -- the patient may not die. They may in**  
 24 **fact have, you know, a relatively benign**  
 25 **problem. But in his case, and the reason it's**

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1 **referenced here, is this is an example of**  
 2 **learning that should have occurred that doesn't**  
 3 **appear to have triggered a different approach.**  
 4 **But the medical event was not did he die or**  
 5 **not, it was that he had a delay in assessment**  
 6 **when he reported chest pain and had normal**  
 7 **vital signs on December 20th, 2016.**  
 8 Q Ms. Lehman and Mr. Wilson did not report chest  
 9 pain, true?  
 10 **A Not that I recall as I sit here today. I'm**  
 11 **just going up to the section of the report that**  
 12 **discusses them.**  
 13 **Yes, I referenced both of those cases**  
 14 **because of a lack of withdrawal assessment and**  
 15 **monitoring.**  
 16 Q And do you have any evidence from the records  
 17 that Mr. Wilson actually experienced  
 18 withdrawal?  
 19 **A No. As I just said, it was never -- it didn't**  
 20 **look like it was ever assessed. So it would**  
 21 **be -- I don't have an opinion that either of**  
 22 **them had it. My concern is that they needed it**  
 23 **and didn't get it.**  
 24 Q You had that concern, but you don't have any  
 25 evidence that actual withdrawal was missed,

36 (Pages 138 to 141)

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1 right?

2 **A That's right. If health staff don't do their**

3 **job, it's impossible to know what happened in**

4 **that void or that black box. So I don't have**

5 **any evidence that they were in withdrawal,**

6 **that's true.**

7 Q And so you -- and you have no evidence that

8 their -- that any abuse disorder contributed to

9 their suicide attempt or suicide.

10 MS. MAKAR: Objection. Form.

11 THE WITNESS: Yes. Again, I didn't

12 see -- this would have been an important

13 feature of a mortality review, is to dig into

14 the contribution of either substance use

15 disorder or withdrawal, but the withdrawal

16 wasn't assessed during their incarceration, and

17 then there wasn't a mortality review for me to

18 look at to see if this had been contemplated.

19 BY MR. KNOTT:

20 Q But you're a forensic correctional health

21 expert, right?

22 **A I don't know what you mean by the term**

23 **"forensic," but I'm a correctional health**

24 **expert.**

25 Q And you have conducted mortality/morbidity

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1 reviews, right?

2 **A Yes.**

3 Q And you looked at the records for Mr. Wilson,

4 right?

5 **A Yes.**

6 Q And you have no basis in those records for

7 saying that withdrawal contributed to his

8 suicide attempt.

9 **A There's no information for me to say either**

10 **way. So I know we're going in circles, but if**

11 **health staff don't measure something, then**

12 **later on, it's true, we don't know if the thing**

13 **happened or not. And so the gross deficiency**

14 **in this care is these patients never got**

15 **monitored for potential withdrawal.**

16 Q And the fact that Mr. Wilson's event occurred

17 in 2020 means that nothing would have been

18 learned from that that would have impacted

19 Ms. Boyer's care. Do you agree?

20 **A Yes.**

21 Q And Ms. Lehman, L-E-H-M-A-N, you have no basis

22 to offer an opinion that she experienced actual

23 withdrawal, correct?

24 **A I would say, again, I have no information**

25 **either way.**

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1 Q And you have no basis to offer an opinion that

2 a failure to address her withdrawal contributed

3 to her suicide.

4 **A I have no information either way.**

5 Q Would it be important to you, as a scientist,

6 to know that you've reviewed the entire

7 available medical record before you offer

8 opinions?

9 **A Well, I think it's important to reflect the**

10 **opinions -- that the opinions I give are based**

11 **on a clear set of information. It's often the**

12 **case that, for instance, family members have**

13 **important information or other sources of**

14 **clinical background would -- might inform my**

15 **opinion. So the most important thing, from my**

16 **standpoint, is to say, you know, which -- the**

17 **scope of types of records that I reviewed.**

18 Q Doctor, do you have any basis to suggest that

19 ACH uses a business model that underbids rivals

20 by cutting back on referrals of sick detainees

21 to outside care providers?

22 **A I don't have an opinion about that.**

23 Q Do you have an opinion that ACH trains all of

24 its new employees to discount the medical

25 concerns of jail detainees?

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1 **A I also do not have an opinion about that.**

2 Q Do you have any evidence to suggest that ACH

3 pressures its practitioners to reduce or delay

4 care?

5 **A The only evidence or indication I have about**

6 **financial concerns is included in the report,**

7 **and I think we've already talked about that,**

8 **where I reference emails and say it could raise**

9 **a concern or it could raise a potential**

10 **concern, but I don't make the conclusion**

11 **definitively about what I know is happening.**

12 Q I'm about to wrap up and let these other folks

13 ask their questions.

14 Doctor, have you ever been accused of

15 professional malpractice?

16 **A No. I was a defendant in a jail case where I**

17 **was named, but it wasn't a patient I saw or**

18 **provided care to. It was in my role as the --**

19 **I think the medical director or the chief**

20 **medical officer.**

21 Q To your knowledge, how many times have you been

22 named as a defendant in a case?

23 **A I think one or two.**

24 Q Do you know whether any of those cases were

25 settled?

37 (Pages 142 to 145)



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1 **A I don't know. I assume they must have been**  
 2 **settled, because I think I listed the**  
 3 **deposition of one of them at the end of my CV,**  
 4 **and after the deposition, I never heard from**  
 5 **the law department again.**  
 6 Q And just because I read this in another  
 7 transcript, I just need to make it a record in  
 8 this case.  
 9 Doctor, you were required to withdraw  
 10 a paper because of inaccurate reporting of data  
 11 on a research project; is that true?  
 12 **A Yes.**  
 13 Q The, I think it's U.S. Department of Health,  
 14 Office of Research Integrity --  
 15 **A Yes.**  
 16 Q -- concluded that you had falsified data, true?  
 17 **A Yes.**  
 18 Q And you agreed to that.  
 19 **A Yes.**  
 20 Q And the paper was withdrawn from publication?  
 21 **A I think two figures were withdrawn, but I'm not**  
 22 **going to -- I'm not disputing it. That's just**  
 23 **my recollection.**  
 24 Q And it was research associated with your Ph.D.  
 25 dissertation?

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1 **A Yes.**  
 2 Q Was it published in a peer-reviewed journal?  
 3 **A Yes.**  
 4 Q And were there any other consequences to you  
 5 other than the withdrawal of the paper?  
 6 **A I underwent a period of monitoring, which meant**  
 7 **subsequent to that, I agreed with the Office of**  
 8 **Research Integrity that when I did research**  
 9 **subsequently, I would have an extra adviser**  
 10 **review my data.**  
 11 **And so during that period, I think it**  
 12 **was two or three years, I went and did a**  
 13 **research fellowship at New York University and**  
 14 **had this extra layer of review and then**  
 15 **finished that time period in good standing, and**  
 16 **it concluded.**  
 17 Q Were you required to leave your Ph.D. program?  
 18 **A I had left the Ph.D. program prior to this. So**  
 19 **the university had concluded -- basically gave**  
 20 **me an option to redo the research and undergo a**  
 21 **different approach, change labs maybe.**  
 22 **I elected to finish with a master's.**  
 23 **So I finished with a master's in biology and**  
 24 **moved on to medical school, but after -- this**  
 25 **agreement with the ORI happened after I had**

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1 **already left the research program.**  
 2 Q And do you remember generally what the topic  
 3 was of the paper?  
 4 **A Something with cytokines, which are kind of --**  
 5 **is a basic bench research project. That's**  
 6 **about what I remember.**  
 7 Q Just one other topic. You published on  
 8 feasibility of treating hepatitis in jails,  
 9 right?  
 10 **A Yes.**  
 11 Q Do you agree there are valid concerns about  
 12 whether starting hepatitis C treatment in a  
 13 jail population is efficacious?  
 14 **A No. And the professional societies that guide**  
 15 **us on hepatitis treatment, both of them, have**  
 16 **made clear in the last several years that**  
 17 **everybody with hep C, unless there's some**  
 18 **clinical reason, everybody should be treated.**  
 19 **They've also moved hep C treatment**  
 20 **into a primary care space, and so -- and they**  
 21 **have specifically said people in jail and**  
 22 **prison should be treated with hep C.**  
 23 **So I agree with those professional**  
 24 **societies and the people who know hep C**  
 25 **treatment, which is that being in jail**

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1 **shouldn't preclude you from being treated.**  
 2 **It's a lifesaving treatment.**  
 3 Q Its concern is that it needs to be continued,  
 4 right? It needs to -- you need to complete the  
 5 treatment, right?  
 6 MS. MAKAR: Objection to form.  
 7 THE WITNESS: I would say you could  
 8 make the same argument about many other very  
 9 serious problems. But, again, the professional  
 10 societies that guide us on hep C treatment have  
 11 said specifically, being in jail and prison  
 12 shouldn't preclude you from getting treated.  
 13 So there are concerns with all sorts  
 14 of treatment, but it is an anachronistic and  
 15 bigoted perception that people with hep C in  
 16 jail shouldn't be treated.  
 17 MR. KNOTT: Okay. I'm going to let  
 18 these other folks ask questions.  
 19 EXAMINATION  
 20 BY MS. MAKAR:  
 21 Q Hi, Dr. Venters. Were there any materials you  
 22 asked me for that I told you I had available to  
 23 me but that I didn't make available to you?  
 24 **A I don't really recall. I just recall that you**  
 25 **shared these 26 patients with me, and I asked**

38 (Pages 146 to 149)

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1 for the mortality reviews, and that's kind of  
2 all I remember.

3 Q Do you recall asking me for any other materials  
4 that you needed for your forming of your  
5 opinions?

6 A No. I think the only thing I asked for that  
7 I -- the only thing I recall asking for that  
8 wasn't available involved mortality reviews.

9 Q Did you notice any errors in your report while  
10 preparing for your deposition or during today's  
11 deposition?

12 A I think there are two. I think we already went  
13 over that I incorrectly attributed the ACH  
14 corporate policies in my list of information  
15 reviewed to a Bates number that -- so in the  
16 information review, I think there are a couple  
17 of errors, like in terms of the numbers I use,  
18 either for the ACH policies or the records for  
19 those 26 patients. I think those are Bates  
20 number errors.

21 And then I think there was a typo  
22 near the end of the report, where I think I  
23 used the word tracks, T-R-A-C-K-S, instead of  
24 the word lacks, L-A-C-K-S. And we already kind  
25 of discussed the -- I'm just looking it up

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1 right now to tell you where it is specifically.  
2 Because we already talked about this area of  
3 the report.

4 On page 12, there is a sentence that  
5 the second paragraph starts, "I have reviewed  
6 the ACH corporate policies, and this" -- then  
7 it says, "and this form also tracks the basic  
8 guidance." And what I meant to say -- meant to  
9 write was "lacks." And so I think I explained  
10 that when we talked about it, but that's a  
11 typo, also. I think those three are kind of  
12 the only ones I'm aware of.

13 Q Have you changed any of your opinions in your  
14 report?

15 A No.

16 MS. MAKAR: I don't have any further  
17 questions right now. Thank you, Doctor.

18 You're on mute, Andrew.

19 MR. JONES: The important first step  
20 in any Zoom call.

21 John, okay if I go next, or do you  
22 want to?

23 MR. CASSERLY: What's that important  
24 step you were talking about? That's fine. Go  
25 ahead.

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1 MR. KNOTT: I think he was saying  
2 it's important to turn on his microphone in a  
3 Zoom call.

4 EXAMINATION

5 BY MR. JONES:

6 Q Dr. Venters, we didn't really meet when we  
7 started. My name is Andrew Jones. I am the  
8 attorney for Monroe County and several  
9 individual Monroe County defendants.

10 We've been at this for a while. If  
11 you want to -- anytime you want to take a  
12 break, just let me know, okay?

13 A Yeah. And we have -- I think since we have,  
14 what, an hour and 20 minutes left, if we use  
15 all that time, maybe in, like, 20, 30 minutes  
16 we could take a quick break, if that's okay.

17 Q We've got till five o'clock your time, right?

18 A Right.

19 Q Okay. Just speak up whenever you're ready for  
20 a break.

21 You talked about this with Mr. Knott,  
22 but I just want to ask a few follow-up  
23 questions. And I don't intend to reask  
24 anything that he already asked -- and forgive  
25 me if I do -- but if you could take a look at

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1 the materials you reviewed for the purposes of  
2 your work on this file on page 4 of your  
3 report. I assume you still have that handy.

4 A Yes.

5 Q Is there anything that at this point, having  
6 answered Mr. Knott's questions, that you think  
7 that you reviewed for the purposes of your work  
8 on the file that isn't listed on page 4?

9 A I think that what I reference in the report,  
10 and this error I just mentioned, was that I  
11 reviewed and discussed in the report both ACH  
12 corporate policies and Monroe County policies.

13 And so I've cited them, you know,  
14 later on in the report, but I think that I  
15 should have put two separate headings, one for  
16 ACH corporate policies, one for Monroe County  
17 policies, and then given the correct Bates  
18 numbers for those. And I think that's an error  
19 I made. And that's the only one, I think, that  
20 I'm aware of.

21 Q And in terms of the medical records for  
22 Ms. Boyer, if I'm understanding this part of  
23 your report correctly, what you had available  
24 to you were medical records from the jail, the  
25 autopsy report, and her medical records from

39 (Pages 150 to 153)

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1 Gundersen Hospital after her medical event on  
 2 January 23rd, correct?  
 3 **A I believe so. I don't -- as I sit here, I**  
 4 **can't recall. There's one PDF that has, like,**  
 5 **Boyer jail records, and I think that -- and**  
 6 **then there's another one for Gundersen, and I**  
 7 **believe that's all I've reviewed for her.**  
 8 **Q And the Gundersen records were for her care at**  
 9 **the hospital after she suffered the medical**  
 10 **emergency in the jail, correct?**  
 11 **A That's my recollection. I don't recall if**  
 12 **there was anything -- if she ever went to that**  
 13 **hospital before, I don't recall seeing**  
 14 **anything. I couldn't preclude it, for sure,**  
 15 **but the records I looked at, certainly that I**  
 16 **was concerned about, were the ones when she got**  
 17 **to the hospital.**  
 18 **Q To the best of your knowledge, you did not have**  
 19 **any medical records for Ms. Boyer from before**  
 20 **she was booked into the Monroe County Jail in**  
 21 **December 2019, correct?**  
 22 **A Not that I recall. The only qualification**  
 23 **would be whether the ME's report referenced any**  
 24 **prior care or care before. Sometimes the ME**  
 25 **will do a medical history, where they put in**

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1 **some amount of, like, medical information, but**  
 2 **I don't recall looking at medical records**  
 3 **besides what we've just discussed.**  
 4 **Q And if you had looked at medical records from**  
 5 **before her booking into the Monroe County Jail,**  
 6 **you would have listed those on page 4 of your**  
 7 **report, correct?**  
 8 **A Yeah, that would be my practice and my intent.**  
 9 **Q And you did not review a deposition transcript**  
 10 **for Ms. Boyer's husband, Greg, correct?**  
 11 **A Not that I recall.**  
 12 **Q Well, there's none listed on your report. Does**  
 13 **that indicate to you that you didn't review**  
 14 **such a transcript?**  
 15 **A I don't recall reviewing such a transcript.**  
 16 **Q And did you review any transcripts from**  
 17 **depositions taken of jail staff, that is**  
 18 **security staff, other than Brooke Dempsey?**  
 19 **A Not that I recall, no.**  
 20 **Q And if you had, you would have listed them,**  
 21 **correct?**  
 22 **A Yes.**  
 23 **Q And the patient files you list in the fourth**  
 24 **bullet point, those are the records that had**  
 25 **the Bates numbering starting with the prefix**

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1 GB, GB1 through 4228. Do you see that  
 2 reference?  
 3 **A Yes. I think that there's a -- I have an error**  
 4 **there, because based on the discussion earlier,**  
 5 **I know for a fact I got a folder with 26 people**  
 6 **in it. And so I looked at those. And so I**  
 7 **think that I may have had an error in the**  
 8 **number I put there, but that reflects the 26**  
 9 **people who I think were non-Monroe, basically,**  
 10 **patients.**  
 11 **Q And that's my question to you. Those records,**  
 12 **to your knowledge at least, were from**  
 13 **individuals who were incarcerated in jails**  
 14 **other than Monroe County, correct?**  
 15 **A Yes. I think I make that clear in the section**  
 16 **on additional patients reviewed, or something**  
 17 **to that effect.**  
 18 **Q And then am I correct in understanding, based**  
 19 **on what's here on page 4 of your report, that**  
 20 **you did not review any medical records for**  
 21 **individuals incarcerated or imprisoned at the**  
 22 **Monroe County Jail, other than for Christine**  
 23 **Boyer, Kenneth Wilson, Jennifer Lehman, and**  
 24 **Larry Schmieder?**  
 25 **A And then there's another patient --**

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1 **Q Is that Mr. Xiong?**  
 2 **A Yes, that's right, that's right. I think**  
 3 **that's the total -- I think that's the total**  
 4 **number of people for whom I reviewed records.**  
 5 **Q That's the total number of individuals for whom**  
 6 **you reviewed medical records who were**  
 7 **incarcerated in the Monroe County Jail,**  
 8 **correct?**  
 9 **A Yes. Or at least at the time their records --**  
 10 **I reviewed the records.**  
 11 **Q And Mr. Schmieder, Mr. Wilson, Ms. Lehman, and**  
 12 **Mr. Xiong, do you know why you were provided**  
 13 **their medical records, out of all the people**  
 14 **who were imprisoned in the Monroe County Jail**  
 15 **between 2015 and 2020?**  
 16 **A I believe I would have asked if we had access**  
 17 **to records for people who died or mortality**  
 18 **reviews for people who died, and so I think**  
 19 **that would be part of it.**  
 20 **Q Well, what would the other part of it be? If**  
 21 **there was any other reason.**  
 22 **A I don't recall any other reason. I don't --**  
 23 **yeah, as I sit here, I don't recall how I came**  
 24 **to get access to those records, besides the**  
 25 **patients who died.**

40 (Pages 154 to 157)

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1 Q So in response to a request for records of  
2 individuals who died, you were given the  
3 records for Mr. Wilson, Ms. Lehman,  
4 Mr. Schmieder, and Mr. Xiong?  
5 **A No. I think that -- my understanding is**  
6 **Ms. Lehman and Mr. Wilson died. I don't think**  
7 **Mr. Xiong died. I can't recall if he died or**  
8 **not as I sit here today.**  
9 Q And if he didn't die, do you have any  
10 understanding as to why you got his record?  
11 **A I don't recall, no.**  
12 Q But having reviewed the records for the other  
13 three, your understanding is that they were  
14 individuals who died in the jail?  
15 **A My understanding is for Mr. Wilson and**  
16 **Ms. Lehman -- and I kind of -- as I sit here**  
17 **today, I've kind of forgotten about**  
18 **Mr. Schmieder's case, so I don't really recall**  
19 **what his outcome was.**  
20 Q And do you have any other information at all  
21 about individuals other than Ms. Boyer and  
22 those four who were in the Monroe County Jail  
23 in those six years, 2015 to 2020?  
24 MS. MAKAR: Objection. Form.  
25 THE WITNESS: I don't believe I've

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1 looked at any other medical records for anybody  
2 else.  
3 BY MR. JONES:  
4 Q And so, for instance, do you know how many  
5 individuals were booked into the jail in those  
6 six years?  
7 **A No.**  
8 Q Have you reviewed the intake screening records  
9 for any individuals other than those five?  
10 **A No, I don't believe so.**  
11 Q Do you know how many individuals received  
12 medical care in the Monroe County Jail in those  
13 six years?  
14 **A No.**  
15 Q Do you have any idea or do you have any  
16 knowledge as to how many prisoners in the jail  
17 were suffering from withdrawal from drugs or  
18 alcohol in those six years?  
19 **A No.**  
20 Q Do you have any knowledge as to how many of  
21 those were placed on withdrawal protocols, such  
22 as CIWA or COWS?  
23 **A No.**  
24 Q Do you have any knowledge as to how many  
25 prisoners in the Monroe County Jail suffered

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1 medical emergencies in those six years?  
2 **A No.**  
3 Q Do you have any knowledge as to how many  
4 prisoners in the jail were referred to outside  
5 medical care during those six years?  
6 **A No.**  
7 Q So if we look at -- if we could turn to page 12  
8 of your report. Are you there? Or let me know  
9 when you are.  
10 **A Yes.**  
11 Q So in this section of your report about your  
12 findings and opinions with respect to  
13 Ms. Boyer's death, there are several opinions  
14 you offer, each one under a separate heading,  
15 correct?  
16 **A Yes.**  
17 Q And the first one, starting on page 12, has to  
18 do with your opinion with respect to the  
19 adequacy of the intake screening or medical  
20 clearance, correct?  
21 **A Yes.**  
22 Q And if we just identify the individuals who  
23 were jailed at the Monroe County Jail for whom  
24 you reviewed records, that fall -- strike that.  
25 My understanding on reviewing your

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1 report is that there were two patients, two  
2 individuals who were in the jail for whom you  
3 reviewed their records, that form the basis for  
4 this opinion. Is that correct? That is  
5 Ms. Boyer and Mr. Schmieder.  
6 MS. MAKAR: Objection. Form.  
7 THE WITNESS: I would -- looking at  
8 this section here, it references the individual  
9 records for people, but it also references, for  
10 instance, the deposition testimony of staff.  
11 So, for instance, there's a paragraph  
12 that starts on page 13, "Nurse Practitioner  
13 Pisney testified that she had never seen one of  
14 the intake sheets before the death of  
15 Ms. Boyer."  
16 BY MR. JONES:  
17 Q So let me rephrase the question, just so we're  
18 talking about the same thing.  
19 If we were to identify the  
20 individuals who were imprisoned at the Monroe  
21 County Jail whose records you reviewed and  
22 formed at least part of the basis for this  
23 opinion, it's two individuals, Christine Boyer  
24 and Larry Schmieder, correct?  
25 **A Yes. Those are the two people that I cite for**

41 (Pages 158 to 161)

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1 **medical records.**  
 2 Q And then on page 17 of your report, you move on  
 3 to discuss an opinion with respect to  
 4 monitoring of individuals for substance  
 5 withdrawal, correct?  
 6 A Yes.  
 7 Q And if we create a list of the individuals  
 8 imprisoned in the Monroe County Jail for whom  
 9 you reviewed their records that fall within  
 10 this opinion, that's three individuals,  
 11 correct? Ms. Boyer, Jennifer Lehman, and  
 12 Kenneth Wilson?  
 13 A Yes.  
 14 Q No others, correct?  
 15 A Correct.  
 16 Q And if we look at page 20, you move there to a  
 17 discussion of an opinion you hold with respect  
 18 to the response to medical emergencies,  
 19 correct?  
 20 A Yes.  
 21 Q And so for that section of your report, that  
 22 opinion, in terms of the individual --  
 23 individuals who were imprisoned in the Monroe  
 24 County Jail whose records you reviewed that  
 25 form a part or a basis for that opinion, it's

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1 Monroe County Jail in the five years prior to  
 2 Ms. Boyer's death, do you?  
 3 A Not as I sit here today, no.  
 4 Q Well, do you believe you have any information  
 5 in your report that would answer that question?  
 6 A Well, I referenced a couple of deaths -- I  
 7 don't know if it was five or seven years  
 8 before -- but to answer your initial question,  
 9 I've seen zero mortality reviews.  
 10 So for Ms. Boyer, for Ms. Lehman, for  
 11 the other person that committed suicide, that's  
 12 three, I don't know what the time span is, but  
 13 I haven't seen any mortality reviews.  
 14 Q And the individuals that you cite in your  
 15 report as a basis for your opinion about  
 16 mortality reviews who were incarcerated in the  
 17 Monroe County Jail, that's Ms. Boyer and  
 18 Mr. Xiong, correct?  
 19 A Well, I think that Mr. Xiong is an example of a  
 20 problem that would have been fixed with  
 21 mortality reviews. He didn't die, but I think  
 22 he's a good example of either morbidity or  
 23 critical case review.  
 24 But my understanding is there are  
 25 three people who died, Ms. Boyer, Mr. -- sorry,

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1 Ms. Boyer and Mr. Xiong, correct?  
 2 A Yes.  
 3 Q No others, correct?  
 4 A Correct.  
 5 Q And then finally, starting on page 24, pages 24  
 6 through 26, you're offering an opinion about  
 7 failure of ACH to conduct mortality reviews,  
 8 correct?  
 9 A Yes.  
 10 Q And same question. The individuals who were  
 11 imprisoned in the Monroe County Jail for whom  
 12 you reviewed records that form the basis for  
 13 that opinion, it's two, Ms. Boyer and  
 14 Mr. Xiong, correct?  
 15 MS. MAKAR: Objection. Form.  
 16 THE WITNESS: Well, my understanding  
 17 is nobody got mortality reviews. So the  
 18 patients who committed suicide, my  
 19 understanding is they didn't get a mortality  
 20 review. But I think that, essentially, the  
 21 denominator is everybody who died, and the  
 22 numerator is zero, because I didn't -- I didn't  
 23 see any mortality reviews.  
 24 BY MR. JONES:  
 25 Q And you don't know how many people died in the

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1 I'm blanking on the other two names, the two  
 2 people who died by suicide.  
 3 So those are, at a minimum, three  
 4 people that should have had mortality reviews  
 5 that I didn't see any for.  
 6 Q And in that answer, you're talking about  
 7 Ms. Boyer, Ms. Lehman, and Mr. Wilson, yes?  
 8 A I think so, yes.  
 9 Q Would you look at page 13 of your report?  
 10 A I'm sorry, did you say 13, one three?  
 11 Q Yes. Bottom of 13 onto 14. You have a  
 12 discussion there of elements missing from the  
 13 intake medical screen form that you saw --  
 14 A Yes.  
 15 Q -- and used in Ms. Boyer's case?  
 16 A Yes.  
 17 Q And you indicate that the form was missing many  
 18 of the basic elements that the NCCHC standard  
 19 indicates should be part of the form, yes?  
 20 A Yes.  
 21 Q And that's NCCHC J-E-02, is it not?  
 22 A It may be, as I sit here. I'm not disputing  
 23 it. I just don't recall or have the standard  
 24 in front of me.  
 25 Q And you were quoting there at the bottom of 13

42 (Pages 162 to 165)



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1 to the top of 14 your -- what you were doing  
2 there was repeating portions of that standard  
3 that should be in the intake screening form,  
4 correct?

5 **A Yes. Or, like, very -- it doesn't have to -- I**  
6 **don't take the position that it has to be**  
7 **exactly those words, but, you know, disability**  
8 **accommodation, history of withdrawal, these**  
9 **broad areas should be part of every receiving**  
10 **screening.**

11 **Q And just looking at that block quote from the**  
12 **bottom of 13 onto the top of 14, what**  
13 **specifically was missing from the form used**  
14 **with Ms. Boyer?**

15 **A Well, we've already talked about one of the**  
16 **areas that I think is relevant to the case,**  
17 **which is the history of withdrawal. It's not**  
18 **even clinically useful to ask a patient who's**  
19 **intoxicated are you withdrawing.**

20 **There are very specific and standard**  
21 **questions about the history of withdrawal the**  
22 **jails everywhere I've been asked. So have you**  
23 **ever experienced -- what happens when you stop**  
24 **drinking? Well, a lot of patients don't even**  
25 **know what withdrawal is, so you're asking them**

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1 **a question that's impossible or hard for them**  
2 **to answer.**

3 **So the standard approach that I've**  
4 **seen in jails all over the country is, what**  
5 **happens when you stop drinking? How do you**  
6 **feel? And then affirmatively they ask, do you**  
7 **ever get the shakes? Do you ever get dizzy?**  
8 **Do you ever see things? All these things that**  
9 **go into a history of withdrawal. So that's an**  
10 **example that it's relevant to my second finding**  
11 **in this case.**

12 **By the way, you also see, you know, I**  
13 **think that asking about -- getting a good set**  
14 **of vitals, asking about some of these other**  
15 **problems, like dental problems or accommodation**  
16 **for -- or need for disability accommodation,**  
17 **that's important, but the one that's most**  
18 **directly relevant that seems to be missing from**  
19 **the intake screening form that I looked at is**  
20 **the withdrawal history.**

21 **Q Okay. In addition to that element, what else**  
22 **were you referring to when you said the form**  
23 **was missing many of the basic elements?**

24 **A Well, pregnancy history, recent pregnancy. I**  
25 **mean, that's -- as I said before, I have never**

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1 **encountered a jail that doesn't ask about or**  
2 **test for, through a urine dip or some -- you**  
3 **know, doesn't try and figure out if a woman**  
4 **coming into the jail is pregnant. It's just**  
5 **really unheard of.**

6 **Q So other than history of withdrawal and**  
7 **pregnancy, what other basic elements were**  
8 **missing from the form?**

9 **A Well, I mentioned various -- there's several**  
10 **types of disability and accommodation for**  
11 **disability. And I haven't -- I didn't create a**  
12 **side-by-side list, but it would be easy to pull**  
13 **up -- because there are quite a few missing**  
14 **things, it would be easy to pull up that form**  
15 **and then compare it right now to this.**

16 **Q Well, whatever you need to do to answer the**  
17 **question, but you offered the opinion that the**  
18 **form was missing many of the basic elements,**  
19 **and I just want to know from you what the basic**  
20 **elements are that were missing.**

21 **MS. MAKAR: Objection. Form.**

22 **THE WITNESS: I've just offered**  
23 **multiple examples.**

24 **BY MR. JONES:**

25 **Q I'm asking for a complete list.**

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1 **MS. MAKAR: Objection. Form.**

2 **THE WITNESS: As I sit here today,**  
3 **I'm not in a position to create a spreadsheet**  
4 **or a list, but if you'd like me to provide it**  
5 **and cross-reference what's on that form with**  
6 **what's in this list, I'd be happy to.**

7 **BY MR. JONES:**

8 **Q Really, all I'm asking for, Doctor, is if you**  
9 **can tell me what you meant when you wrote in**  
10 **your report that the form was missing many of**  
11 **the basic elements.**

12 **If you're able to, please do; if**  
13 **you're not, please tell me.**

14 **MS. MAKAR: Objection. Form.**

15 **THE WITNESS: Okay. I don't have**  
16 **your intake screening form memorized. So if**  
17 **you'd like to bring it up, and I'll tell you**  
18 **specifically.**

19 **BY MR. JONES:**

20 **Q Are you able to answer the question in any**  
21 **other way?**

22 **A Not without -- I've given you multiple examples**  
23 **of what you just asked for. To give you more**  
24 **definitive examples or the complete list of the**  
25 **examples, I simply need to compare the intake**

43 (Pages 166 to 169)

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1 screening to this piece of paper. And we could  
2 have accomplished this in a tenth of the time  
3 we're talking about it if you just put it up on  
4 the screen.

5 MS. MAKAR: I need a break in the  
6 next couple minutes, Andrew.

7 MR. JONES: We can take a break now,  
8 if you'd like.

9 MS. MAKAR: Thanks.

10 MR. JONES: How long do you want,  
11 Maria?

12 MS. MAKAR: Ten minutes.

13 MR. JONES: Okay. 2:50.

14 (A recess was taken from 2:40 p.m. to  
15 2:50 p.m.)

16 MR. JONES: Okay. Back on the  
17 record.

18 BY MR. JONES:

19 Q Doctor, I think this might be one thing that  
20 Mr. Knott asked you, so forgive me in advance,  
21 but the NCCHC standard relating to intake  
22 screening, does it speak to taking vital signs  
23 or not? Do you know?

24 A I don't recall -- I don't recall as I sit here  
25 today.

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1 Q If it doesn't, is there another NCCHC standard  
2 that you're aware of that speaks to the  
3 requirement to take vitals at intake?

4 A Usually -- I would have to review, but I think  
5 there's -- in the stand -- in the approach  
6 where custody staff do the -- just ask a few  
7 questions or ask a bunch of questions, then  
8 there's usually an approach that involves a  
9 nurse assessment after that.

10 And so I think in that two-step, when  
11 it's not a nurse seeing the patient first, when  
12 it's custody staff, then a nurse, I think that  
13 would -- either way, the patient should have  
14 their vitals on the way in. I just don't  
15 recall if that's -- where that's in, this  
16 standard or the one that follows.

17 Q And, again, sticking with NCCHC standards, are  
18 you aware of what NCCHC standard, if there is  
19 one, that requires that a pregnancy test be  
20 done on a female prisoner of childbearing age?

21 A I don't recall. I think there's mention of  
22 pregnancy history has to be collected, which  
23 obviously was not done in this case. And I  
24 don't recall where the pregnancy test is. It  
25 may be like the vital signs is done by nursing

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1 staff right after the custody staff, but I  
2 don't -- as I sit here today, the J-E-02  
3 specifically mentions pregnancy history, which  
4 was not collected. The test itself, I don't  
5 recall where it's referenced in the standards.

6 Q You're not able to tell us what standard would  
7 include that requirement; is that correct?

8 A No, not as I sit here today.

9 Q And what does the standard of care in  
10 correctional health, in your opinion, require  
11 if a patient or inmate declines assessment by a  
12 health care provider?

13 A Well, if it's the initial assessment, the  
14 standard of care involves -- it depends on  
15 whether or not they're going to answer  
16 questions, and you can rule out communicable  
17 disease concerns.

18 So, for instance, some of the  
19 questions that are lacking from this form that  
20 you all used and this NCCHC specifically  
21 references involved the concern for potentially  
22 having tuberculosis. So asking things like are  
23 you spitting up blood at night? Have you had  
24 weight loss?

25 Every correctional setting worries

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1 about tuberculosis, other communicable diseases  
2 coming in and causing an outbreak. So when a  
3 patient won't answer any of those questions and  
4 the health staff and the security staff can't  
5 figure it out, then often those patients will  
6 go into a medical isolation cell. And there  
7 are various approaches to figuring that out.

8 That's separate from if the patient  
9 has a potentially life-threatening emergency.  
10 If the patient won't agree to an assessment,  
11 but it looks like they're in distress, then  
12 they would be sent to the hospital.

13 Q Well, what about -- what about a patient or a  
14 detainee who does not appear to be in any sort  
15 of medically emergent state, but declines a  
16 medical assessment by health care staff? What  
17 does the standard of care require in that  
18 instance, if anything?

19 A Well, it kind of comes down to the clinical  
20 risk. If a patient, for instance, is  
21 severely -- is intoxicated, where they're --  
22 this is pretty common in jail settings --  
23 patients come in, they're intoxicated, they  
24 either can't or won't engage with health staff,  
25 then those patients go out for medical

44 (Pages 170 to 173)

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1 clearance, where they go to a hospital, the  
2 hospital makes an assessment, and then they  
3 come back.

4 The same could be true for a patient  
5 with a, you know, psychiatric problem. When  
6 they're not engaging with health staff, it's  
7 not actually clear to custodial or health staff  
8 what the problem is. The patients often don't  
9 engage.

10 And so what we don't want is for them  
11 to say, we'll see you in 24 hours, or we're  
12 just going to peek in the cell every, you know,  
13 half hour. We want to know if there's any  
14 concern about withdrawal, psychosis,  
15 suicidality, those patients to get assessed and  
16 medically cleared.

17 Q So let's take it out of the intake context.  
18 And so if it's just a detainee who's already in  
19 custody and has been in custody for some period  
20 of time and is not presenting with withdrawal  
21 or any concern of a risk for contagious disease  
22 and is not presenting with any sort of emergent  
23 condition and that individual declines, say, an  
24 H&P, that sort of assessment, what, if  
25 anything, does the standard of care require for

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1 staff in that instance, in your opinion?

2 MS. MAKAR: Objection. Form.  
3 Incomplete hypothetical.

4 THE WITNESS: So there's two kind of  
5 interests at play. One is patients who are  
6 incarcerated or detained, they retain  
7 decisional capacity. So this is a core element  
8 of -- there's a basic medical ethic principle  
9 that says people have the right to make  
10 decisions about their health care.

11 So if a person is refusing something  
12 about an assessment or care, a provider, which  
13 is, you know, an M.D., a P.A., or a nurse  
14 practitioner, needs to assess their decisional  
15 capacity.

16 There is another interest at play,  
17 though, which is that if any of this assessment  
18 relates to the safety or health of people  
19 around the person.

20 So I mentioned communicable disease.  
21 An example I've run into is, you know, if  
22 there's an outbreak of MRSA, methicillin  
23 resistant -- or you know what, I'll just say if  
24 there's a -- if there's an outbreak of a skin  
25 infection, it could spread to other people.

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1 If a patient refuses to be assessed  
2 by that, they may retain the decisional  
3 capacity to refuse that assessment, but it may  
4 be that there's an important response that  
5 involves physically separating them from other  
6 people so that doesn't spread.

7 So those are my two practices and I  
8 think won't reflect the standard of care for  
9 refusal of different elements of assessment.

10 BY MR. JONES:

11 Q So if a detainee or a prisoner declines an H&P,  
12 and there isn't a concern about that prisoner's  
13 capacity to make that decision, and there isn't  
14 a concern about the sort of health risk to  
15 others that you described in your example, what  
16 does the standard of care require in that  
17 instance?

18 A Well, I'm not really familiar with patients who  
19 persistently refuse their initial history and  
20 physical. I think that my experience in doing  
21 history and physicals is that a patient may  
22 refuse it on day one or two, and, you know,  
23 it's the job of the health staff, the doctor or  
24 the nurse practitioner or the physician  
25 assistant, to try and engage with them to get

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1 it done.

2 And sometimes it might mean  
3 negotiating, getting the most critical parts of  
4 the medical history or the physical exam, but  
5 certainly engaging with a patient to try and  
6 get the essential parts of the history and  
7 physical done, that's the obligation of the  
8 health staff.

9 Q And ultimately, does the individual who's  
10 detained retain the authority, the ability to  
11 say no, I decline for that sort of assessment,  
12 as long as they're considered to be capable of  
13 making that decision?

14 MS. MAKAR: Objection. Form.

15 THE WITNESS: And as long as there's  
16 no concern about a communicable disease. I  
17 think -- I actually have not encountered that  
18 ever in my career. Sometimes people refuse  
19 things, but they generally will agree, you  
20 know, on day two or three or four.

21 BY MR. JONES:

22 Q I don't mean to ask you based solely on your  
23 experience. My question is, as someone who's  
24 practiced in this field, in your opinion, do  
25 individuals retain the right to decline

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1 assessment by medical staff, as long as they're  
2 capable of making that decision and don't  
3 present a risk of the sort of contagious  
4 disease that you've described in your prior  
5 responses?

6 MS. MAKAR: Objection. Incomplete  
7 hypothetical.

8 THE WITNESS: I think if you check  
9 off the box of doing a decisional capacity  
10 assessment, and you've tried to engage with a  
11 patient, and there's no concern with any  
12 communicable diseases, then it is foreseeable,  
13 but depending on the type of facility, it is  
14 often the case that those patients will be in a  
15 medical isolation cell. Because I just have  
16 never -- it's such a rare, in my experience,  
17 impossible -- or I haven't encountered it --  
18 hypothetical, that once a patient is in medical  
19 isolation and staff are engaging with them,  
20 they're able to get the information they need  
21 and do the assessment they need within a few  
22 days.

23 BY MR. JONES:

24 Q In terms of Ms. Boyer, do you know anything  
25 about her use or abuse of alcohol, opiates,

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1 problems.

2 But, you know, we have to look for  
3 withdrawal, otherwise we miss it, and  
4 withdrawal can be missed and can be very  
5 serious in patients who we don't think drink  
6 as -- you know, to excess, or get drunk falling  
7 down.

8 So, yes, in that scenario you just  
9 postulated, that patient certainly, I would  
10 suspect, will feel some symptoms of withdrawal.  
11 It depends if there's other withdrawal or other  
12 health problems, but yes, I would predict some  
13 symptoms.

14 BY MR. JONES:

15 Q To be sure that I understand, your medical  
16 opinion is that someone who has a drink or two  
17 three times a week, but not to excess, will  
18 experience withdrawal if they don't have a  
19 drink for 24 to 36 hours?

20 **A I think it's very possible that a person who**  
21 **has multiple drinks multiple times a week will**  
22 **experience some sort of withdrawal. And I**  
23 **think, as I said, if they have heart problems,**  
24 **lung problems, if they're also taking anything**  
25 **else that they could withdraw from, then the**

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1 and/or benzodiazepines before she was booked  
2 into the jail?

3 **A No, I don't think so.**

4 Q And to your knowledge, was she documented as a  
5 daily alcohol drinker?

6 **A I would have to review the intake assessment.**  
7 **I don't recall -- I don't recall that.**

8 Q You don't know one way or the other?

9 **A As I sit here today, I don't recall.**

10 Q And I know you discussed this in part with  
11 Mr. Knott, but just to be sure I understand  
12 your opinion, all else being equal, would you  
13 expect an individual who consumes alcohol, on  
14 average, three times a week, but not to excess,  
15 to experience alcohol withdrawal symptoms if  
16 they don't have a drink for 24 to 36 hours?

17 MS. MAKAR: Objection to form.  
18 Improper hypothetical.

19 THE WITNESS: I would -- that's a  
20 little bit more precise question, and I think  
21 that when people drink two or three times a  
22 week consistently, when they stop drinking,  
23 they'll have withdrawal symptoms. They may be  
24 mild, but they may not, and it depends a little  
25 bit on them, a little bit on their other health

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1 **likelihood of those would be exacerbated.**

2 **But it is not the -- we don't know**  
3 **when a person comes through the door the truth**  
4 **of how much they drink, and one of the problems**  
5 **with this form you have and the facility is it**  
6 **asks specifically do you abuse drugs or**  
7 **alcohol. And that is such an antiquated,**  
8 **harmful way to ask the question, because**  
9 **patients don't respond to that. Patients --**  
10 **the standard of care in corrections for a long**  
11 **time has been to simply ask do you use alcohol,**  
12 **do you use drugs. So when you start with this**  
13 **question do you abuse, it makes a moral**  
14 **judgment on the patient, and it really sets you**  
15 **up to not find out if it's one drink or five**  
16 **drinks a few times a week.**

17 Q So it's possible that someone who drinks three  
18 times a week but not to excess would experience  
19 withdrawal symptoms if they don't have a drink  
20 for 24 to 36 hours? Is that your testimony?

21 MS. MAKAR: Objection. Form.

22 THE WITNESS: Yes. And, you know,  
23 alcohol withdrawal symptoms can occur over a  
24 period of days. And as I said, also, one of  
25 the important modifiers about that would be if

46 (Pages 178 to 181)

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1 there's any withdrawal from other substances or  
 2 other health problems.  
 3 BY MR. JONES:  
 4 Q On page 20 of your report, you indicate that  
 5 the Gundersen Health -- or excuse me, Gundersen  
 6 Hospital records for Ms. Boyer confirmed the  
 7 presence of benzodiazepines in her system on  
 8 the day of her admission, so January 23rd.  
 9 Do you see that reference, end of the  
 10 paragraph that carries on to page 20?  
 11 A I'm looking. Sorry, I'm having trouble finding  
 12 it.  
 13 Q On page 20 of your report.  
 14 A Okay. Sorry. From 19 to 20. I was looking at  
 15 20 to 21.  
 16 Q Sorry. The last sentence of the paragraph that  
 17 carries on to page 20.  
 18 A Yes, I see that.  
 19 Q Okay. So what's the significance for your  
 20 opinion with respect to Ms. Boyer and the  
 21 possibility of her experiencing withdrawal  
 22 symptoms of the fact that she had  
 23 benzodiazepines in her system when she first  
 24 got to Gundersen?  
 25 A I'm not sure. I think that the most important

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1 thing is that, as I recall, she had a  
 2 benzodiazepine pill in her purse, that that  
 3 should have triggered the withdrawal  
 4 monitoring. That she had benzodiazepines in  
 5 her system later, either when she died or when  
 6 she was at the hospital, as I said earlier, I  
 7 don't have a definitive opinion that she was  
 8 for sure in one type of withdrawal or another.  
 9 So I would say that is just kind of a  
 10 recitation of -- that she had benzos in her  
 11 system.  
 12 The most -- in terms of the  
 13 deficiency in the care, that second finding is  
 14 that there was a concern that she had some  
 15 benzodiazepine on her person, and that should  
 16 have triggered, although it would have been  
 17 probably the same tool, monitoring for  
 18 withdrawal symptoms.  
 19 Q And does the fact that she had benzodiazepines  
 20 in her system when she was admitted to  
 21 Gundersen on January -- excuse me,  
 22 December 23rd, does that say anything about  
 23 whether or not she was in withdrawal?  
 24 A Well, no. We don't know anything about if she  
 25 was in withdrawal, because it was never

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1 measured.  
 2 That's the point I keep coming back  
 3 to. If you don't look for it, then you get to  
 4 say it never happened, because you never found  
 5 it. But she needed withdrawal monitoring. I  
 6 don't have an opinion that she was definitely  
 7 in this type of withdrawal or that type of  
 8 withdrawal.  
 9 Q Are there short-term versus long-term  
 10 diazepam -- benzodiazepines?  
 11 A Sure.  
 12 Q And what's the distinction there?  
 13 A Well, clinically, the difference is the  
 14 mechanism of action, how long it lasts. From a  
 15 jail health standpoint, when you do a  
 16 withdrawal assessment, when you start the  
 17 CIWA -- you usually would use a CIWA for  
 18 alcohol and benzodiazepine -- if you learn that  
 19 a person was on a long-acting benzodiazepine,  
 20 then you may want to extend out your period of  
 21 monitoring. But in terms of the initial days  
 22 in the jail, it's not -- you would just start  
 23 the withdrawal monitoring right away.  
 24 Q In your experience, does whether someone is  
 25 using a long-acting benzodiazepine versus a

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1 short-acting benzodiazepine have any impact on  
 2 how quickly they'll begin to feel withdrawal  
 3 symptoms?  
 4 A Sure. The American Society of Addiction  
 5 Medicine has all sorts of tables that lay this  
 6 out, but basically, we think of most withdrawal  
 7 symptoms happening in the first few days in a  
 8 jail. There are people that have been taking  
 9 long-acting benzodiazepines that could show up  
 10 with their most serious symptoms, let's say a  
 11 week or even up to ten days into incarceration.  
 12 And so those assessments and  
 13 decisions are really important later on, not so  
 14 much in the first couple of days you would  
 15 start, you know, the CIWA monitoring, but it  
 16 could be relevant, let's say, a week into or  
 17 five or six days into detention, where, you  
 18 know, the concern about alcohol or short-acting  
 19 benzo withdrawal has waned, but if you knew  
 20 that they were on a long-acting benzodiazepine,  
 21 you might continue monitoring.  
 22 Q If Ms. Boyer had been abusing opiates, would  
 23 you have expected -- or would you expect  
 24 opiates to have been found in her system at  
 25 Gundersen?

47 (Pages 182 to 185)



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1 **A I think -- well, I would think if she had -- if**  
 2 **she had a tox. screen done, the opiates would**  
 3 **have been found, so yes. And I don't recall**  
 4 **seeing that she had any opiates in her system.**  
 5 **But, yes, generally, whether it's prescribed or**  
 6 **illicit opiates, whether it's pills or other**  
 7 **forms, they would show up in most tox. screens.**  
 8 **Q If she had been using them regularly or abusing**  
 9 **them, they would have shown up in a tox. screen**  
 10 **done at Gundersen when she first got there.**  
 11 **A I think so, yes.**  
 12 **Q Is there -- on this subject of withdrawal**  
 13 **assessment, I don't think I saw in your report**  
 14 **a specific cite, such as to an NCCHC standard**  
 15 **with respect to your opinion that the basic**  
 16 **standard of care required that Ms. Boyer had**  
 17 **been assessed and monitored for withdrawal.**  
 18 **Is there a specific standard that you**  
 19 **can point us to?**  
 20 **MS. MAKAR: Objection to form.**  
 21 **THE WITNESS: Yeah. I think there's**  
 22 **a -- NCCHC jail standards have a withdrawal --**  
 23 **medical management and withdrawal standard, I**  
 24 **can't remember what the number is, and I think**  
 25 **since at least 2014, they've referenced one --**

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1 using one of the accepted tools, meaning CIWA  
 2 or COWS. And I'm happy to go look at what that  
 3 standard is, but I'm pretty sure it's  
 4 management or medical management of withdrawal.  
 5 BY MR. JONES:  
 6 **Q The policy -- the policy that you describe --**  
 7 **the jail policy that you describe on page 18 of**  
 8 **your report, with respect to intoxication and**  
 9 **withdrawal, that written policy -- let me know**  
 10 **when you're there.**  
 11 **A Yes, I see that.**  
 12 **Q Do you have any concern with respect to the**  
 13 **policy as it's written?**  
 14 **A I don't recall as I sit here today. I think**  
 15 **that's the policy I was just thinking of when**  
 16 **you asked me the prior question. As I sit**  
 17 **here, I don't recall whether or not the Monroe**  
 18 **County policy has what I believe is in the**  
 19 **NCCHC standard, which is to mandate that people**  
 20 **are monitored on a regular basis for**  
 21 **withdrawal. And so I think that that's**  
 22 **probably the most important element of medical**  
 23 **management and withdrawal is the monitoring via**  
 24 **these tools.**  
 25 **And so if that was not in the policy**

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1 **that Monroe County had or they had not worked**  
 2 **to ensure that their vendor had that approach,**  
 3 **that would be a critique.**  
 4 **Q Are you expressing an opinion in your report**  
 5 **that the written policy, as you quoted it on**  
 6 **page 18 of your report, is deficient in some**  
 7 **way?**  
 8 **A I'm -- no, because I think that it is my**  
 9 **experience that sometimes counties may have a**  
 10 **medical policy that doesn't spell out every**  
 11 **element of care that should be provided. And**  
 12 **so I think it's important to ensure for this**  
 13 **exam -- because this is a common cause of**  
 14 **preventable deaths in jails, the county should**  
 15 **have a way to ensure that this part of the**  
 16 **clinical standard of care is followed. Often**  
 17 **they copy and paste the whole NCCHC standard**  
 18 **in, but certainly some counties also take the**  
 19 **approach of having a more minimal set of**  
 20 **clinical standards, but then making sure**  
 21 **through oversight or quality assurance that the**  
 22 **vendor does meet the clinical standard of care.**  
 23 **So there are different ways to do that.**  
 24 **Q Well, again, I'm just trying to understand if**  
 25 **you're expressing an opinion one way or the**

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1 other as to whether the written policy that the  
 2 county had in place was deficient.  
 3 **A And I'm saying I don't recall as I sit here**  
 4 **today, and so I'm not making an opinion today**  
 5 **about this area where I have identified what I**  
 6 **think is a clinical deficiency in the ACH**  
 7 **approach as to whether or not that reflected a**  
 8 **deficiency on the county's side.**  
 9 **Because I would allow for the fact**  
 10 **that counties can use written policies, but**  
 11 **they can also use other means to ensure that a**  
 12 **vendor meets clinical standards of care.**  
 13 **Q In terms of mortality reviews, I think Mr. --**  
 14 **when Mr. Knott was asking you questions, you**  
 15 **talked about the fact that NCCHC has a standard**  
 16 **relating to the procedure in the event of an**  
 17 **inmate death.**  
 18 **And so setting that aside, is there**  
 19 **an NCCHC standard that requires the sort of**  
 20 **after-the-fact review by the medical care**  
 21 **provider in the event of serious events that**  
 22 **don't lead to death?**  
 23 **A I think there are two places where the NCCHC**  
 24 **talks about it. One is in the clinical quality**  
 25 **committee, and one is in suicide prevention.**

48 (Pages 186 to 189)

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1 **Those are two areas where patients think they**  
 2 **happen, where the patient doesn't die or worry**  
 3 **about the adequacy of care.**  
 4 Q And so if we look for the NCCHC standards about  
 5 CQI and suicide prevention, that's where we'd  
 6 find reference to that kind of after-the-fact  
 7 review?  
 8 A **That's my recollection as I sit here today.**  
 9 Q Okay. Is there any other -- or are there any  
 10 other standards that you would point us to on  
 11 that requirement?  
 12 A **Well, the standard of care in corrections,**  
 13 **based on my experience, is that the M&M process**  
 14 **is just that, it's morbidity and mortality. So**  
 15 **the NCCHC limits -- has a very limited scope,**  
 16 **but my experience in jail and prison settings,**  
 17 **as a federal monitor, for instance, is that**  
 18 **these reviews, these types of reviews, often**  
 19 **occur after a critical incident that doesn't**  
 20 **involve death.**  
 21 Q And what would the parameters be for deciding  
 22 what sort of events require that kind of review  
 23 outside of a death?  
 24 A **Well, it requires that the clinical leadership,**  
 25 **the medical director of the facility or the**

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1 **nursing director, somebody identify a case**  
 2 **where there was a deficiency that needs**  
 3 **addressing or that could happen again.**  
 4 **So on the mental health side, it's**  
 5 **often self-harm or, you know, suicide attempt,**  
 6 **which are two different things. Missed**  
 7 **medications or wrong medications are examples.**  
 8 **So there are -- it's fairly broad,**  
 9 **and it requires that the clinical staff have**  
 10 **some instruction on when and how to do this.**  
 11 Q Do you recall in your review of the records  
 12 from Mr. Schmieder's death that there was an  
 13 investigation into that death done by the  
 14 Monroe County Sheriff's Office?  
 15 A **I don't -- as I sit here, I don't recall that.**  
 16 **But what I'm talking about is a clinical review**  
 17 **by clinical staff.**  
 18 Q I understand the distinction. I just wanted to  
 19 confirm if you know whether or not the records  
 20 that you reviewed relating to Mr. Schmieder did  
 21 incorporate an investigation done by the  
 22 county.  
 23 A **I'm not disputing it. I just don't happen to**  
 24 **recall that fact.**  
 25 Q And same question as to Ms. Lehman.

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1 A **Yes, again, same. My -- I don't -- I testified**  
 2 **considerably up to this point about the lack of**  
 3 **clinical mortality reviews, but I'm not**  
 4 **disputing the existence of other types of**  
 5 **either critical incident reviews or**  
 6 **administrative reviews.**  
 7 Q You talked quite a bit today about -- well,  
 8 strike that.  
 9 There are places in your report with  
 10 respect to your opinions that you refer to  
 11 various NCCHC standards set out in their  
 12 standards for health services in jails.  
 13 I understood from Mr. Knott's  
 14 questions of you this morning that in addition  
 15 to those NCCHC standards, there are instances  
 16 where your opinions are based on your general  
 17 view of the standard of care based on your  
 18 experience in the field. Is that a fair  
 19 statement?  
 20 A **Yes.**  
 21 Q And so in those instances where in your report  
 22 for your opinions, you don't cite to a  
 23 particular NCCHC standard, are those instances  
 24 where you're offering opinion about the  
 25 standard of care based on your experience

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1 generally in the field?  
 2 A **Yes.**  
 3 Q And so in those instances, what you're telling  
 4 us is based on your general training,  
 5 experience, and knowledge, you have an opinion  
 6 about the standard of care. Is that a fair  
 7 statement?  
 8 MS. MAKAR: Objection. Form.  
 9 THE WITNESS: Yes.  
 10 BY MR. JONES:  
 11 Q But in those instances, you're not -- where you  
 12 don't cite to the NCCHC standards, you're not  
 13 pointing to anything more specific than just  
 14 your general experience and knowledge and  
 15 training, correct?  
 16 A **I think so. I mean, I was just asked about**  
 17 **hepatitis C. So it wasn't in my report, but**  
 18 **there are clear recommendations by professional**  
 19 **societies that are clinical about the need to**  
 20 **treat hepatitis C in jails and prisons.**  
 21 **And so I think I also mentioned**  
 22 **earlier in this discussion about standards that**  
 23 **there are lots of clinical standards, in fact**  
 24 **most clinical standards, of care that the NCCHC**  
 25 **does not reference or get into.**

49 (Pages 190 to 193)

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1 And so the discussion about peak  
2 flows, I didn't put it in my report. It's my  
3 longstanding interpretation of the clinical  
4 standard of care that when a patient is seen  
5 who has asthma, their peak flow should be  
6 checked. That's a clinical standard of care.  
7 That also happens to be supported by the CDC  
8 and the professional societies that treat  
9 asthma, but the difference is that the clinical  
10 standards of care are often not dealt with by  
11 the NCCHC, which is dealing more with the jail  
12 process standards.

13 Q Really what I'm getting at is those instances  
14 in your report where you don't cite to a  
15 specific NCCHC standard for a particular  
16 opinion about standard of care, are those  
17 instances where we can understand that what  
18 you're relying on is your general experience,  
19 knowledge, and training as a physician in the  
20 field?

21 MS. MAKAR: Objection. Form.

22 THE WITNESS: Yes, I think that  
23 that's fair.

24 BY MR. JONES:

25 Q The invoice that you supplied to Ms. Makar for

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1 time you spent on the file and how you spent  
2 that time, or would there?

3 A No, you're correct.

4 Q Do you recall when you were retained to work on  
5 this file?

6 A No. I think it would have been in the latter  
7 part of 2024, but I don't recall when.

8 Q Can you give us anything more specific beyond  
9 latter part of 2024?

10 A I think the last four months, maybe.

11 Q The fall of 2024?

12 A Sometime in the last four months. I just don't  
13 recall.

14 Q And other than speaking with Ms. Makar, was  
15 there anything else you did to prepare for the  
16 deposition today?

17 A I reviewed my report, so I reread my report,  
18 and I re -- I believe I reread Ms. Boyer's  
19 medical records. And so aside from just  
20 looking at records, I didn't speak with anybody  
21 else or do anything else.

22 Q How much time did you spend preparing for the  
23 deposition outside of your meeting with  
24 Ms. Makar?

25 A I think three or four hours.

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1 your work, that invoice was current as of the  
2 day you signed this report, correct?

3 A Or when I sent the invoice, which might have  
4 been the same. I don't -- there would be a  
5 date that the invoice was sent. So, I mean, my  
6 practice would normally be to send an invoice a  
7 day or two after the report, so probably that's  
8 true.

9 Q So the invoice would reflect all of the time  
10 you spent on the file up through and including  
11 the date of the invoice, correct?

12 A Yes.

13 Q And do you keep track separately of the time  
14 you spend on a file?

15 A I usually will have an invoice open. And so I  
16 think I have an invoice number two open, where  
17 I just jot in a Word document the number of  
18 hours that I've put in. And then I'll close  
19 that out and send that whenever I'm ready for a  
20 subsequent invoice. So I guess that is kind of  
21 a separate approach.

22 Q But for the time you spent that was reflected  
23 in the first invoice, the only invoice, as I  
24 understand it, that you sent to Ms. Makar,  
25 there wouldn't be any separate record of the

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1 Q And how long was the meeting with Ms. Makar?

2 A I believe it was one hour.

3 Q Is there anything else specific you recall  
4 reviewing other than your report and  
5 Ms. Boyer's medical records in the three to  
6 four hours you spent preparing outside of the  
7 meeting with Ms. Makar?

8 A Not that I recall.

9 Q I understand that Ms. Makar or her office sent  
10 you various records to review, correct?

11 A Yes.

12 Q And my understanding, based on your testimony  
13 thus far is you would get an email that  
14 wouldn't have any substantive text, and it  
15 would contain a link to whatever additional  
16 records you were being provided. Is that  
17 correct?

18 A As I sit here today, I actually don't know if  
19 it was a Box link. That's most commonly how I  
20 get records. It could be that they were just  
21 sent as email attachments, which would be  
22 pretty burdensome with this case. But either  
23 way -- as I sit here today, I don't recall  
24 that, because either way, what I would be doing  
25 is downloading a file, either from an email or

50 (Pages 194 to 197)

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1 from a Box link that came with a report -- or  
 2 came from counsel.  
 3 Q Were there any communications in writing from  
 4 Ms. Makar or her office that in the  
 5 communication identified any facts or data  
 6 provided by her or her office that you relied  
 7 on in forming your opinions?  
 8 A No.  
 9 Q Were there any communications from Ms. Makar or  
 10 her office that provided assumptions for you to  
 11 rely on in forming your opinions?  
 12 A No.  
 13 Q And were there any communications to and from  
 14 Ms. Makar or her office relating to your  
 15 compensation for your work on the file other  
 16 than the one invoice you've provided to date?  
 17 A No.  
 18 Q And the hourly rate that you're charging for  
 19 your work in this file, is it your standard  
 20 rate, or is it higher or lower than your  
 21 standard rate?  
 22 A That's my standard rate.  
 23 Q You are not a cardiologist, correct?  
 24 A Correct.  
 25 Q You are not an emergency room physician,

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1 correct?  
 2 A Correct.  
 3 Q You are not an addiction medicine specialist;  
 4 is that correct?  
 5 A Correct.  
 6 Q Are you a fellow or member of the American  
 7 College of Correctional Physicians?  
 8 A No.  
 9 Q Have you ever been?  
 10 A No.  
 11 Q Have you ever worked in a jail setting in a  
 12 capacity other than as a medical professional?  
 13 A Other than as a monitor or -- so including  
 14 monitoring a jail and also working directly as  
 15 a medical professional, no, no other roles.  
 16 Q And your monitoring role, that's as a  
 17 physician, correct?  
 18 A Yes.  
 19 Q So you haven't been a corrections officer,  
 20 sergeant, lieutenant, any sort of security role  
 21 in a jail.  
 22 A Correct.  
 23 Q Have you ever received any training as a  
 24 security officer in a jail or other confinement  
 25 setting?

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1 A No.  
 2 Q You are not an expert on the security aspects  
 3 of corrections, correct?  
 4 A No. With the narrow carve-out that there is a  
 5 part of security training that is generally  
 6 referred to as health training for correctional  
 7 staff. And so both in my role in the New York  
 8 City jails and my role as a monitor, I have  
 9 expressed expertise and authority in  
 10 contributing to and reviewing those policies.  
 11 So as a monitor, I look at what  
 12 health training is given the security staff,  
 13 for instance, and what they're advised or  
 14 trained to do. But with that very narrow  
 15 carve-out, which would include suicide  
 16 prevention, I have no other expertise in  
 17 security matters.  
 18 Q What did you do between 1989 and when you began  
 19 medical school, which, if I'm interpreting your  
 20 CV correctly, was 1999?  
 21 A I was in the Peace Corps in West Africa. Then  
 22 I came back and took several years to take  
 23 basic science classes to apply to medical  
 24 school. I worked as an EMT while I was doing  
 25 that. And then I went to Illinois and started

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1 working in a lab and then transitioned to  
 2 medical school.  
 3 Q So when was the Ph.D. work that Mr. Knott was  
 4 asking you about?  
 5 A I think that was maybe 1999 or 2000. It was  
 6 right at the time when I was starting to become  
 7 a medical student.  
 8 Q Are all of the specific sources that you relied  
 9 on in forming your opinions cited in your  
 10 report?  
 11 A Yes, with the caveat that I identified, I  
 12 think, two errors in the information reviewed  
 13 regarding the Bates numbers in reference to ACH  
 14 corporate policies and Monroe County policies.  
 15 But with that exception, I believe everything I  
 16 reviewed upon -- everything I've relied upon  
 17 for my opinions is included in the report.  
 18 Q And it's a problem with the wording of the  
 19 question, but what I was meaning to ask you  
 20 about was, you know, for instance, various  
 21 NCCCHC standards, sources like that.  
 22 Are all of the sources in your field  
 23 of work that you relied on in forming your  
 24 opinions, are those referenced or cited in your  
 25 report?

51 (Pages 198 to 201)

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1 **A I believe so, yes.**  
 2 MR. JONES: Okay. I think that's all  
 3 I have, but I'll turn it over to Mr. Casserly,  
 4 and if I think of anything else, I'll ask it at  
 5 the very end. Thank you, Doctor.  
 6 THE WITNESS: Thank you.  
 7 EXAMINATION  
 8 BY MR. CASSERLY:  
 9 Q Good afternoon, Doctor. My name is John --  
 10 excuse me -- my name is John Casserly, and I  
 11 represent a corporation called USA Medical and  
 12 Psychological Staffing, as well as some past  
 13 and one current shareholder of that  
 14 corporation. Their names are Drs. Johnson,  
 15 Schamber, Harmston, and Bresnahan.  
 16 Have you reviewed the -- I don't  
 17 expect to take a lot of time with you unless  
 18 you surprise me with some opinions that aren't  
 19 in your report or documents that aren't listed  
 20 as having been reviewed. I just need to dot my  
 21 I's and cross my T's. So I hope to be done  
 22 with you in 10 or 15 minutes here.  
 23 Depositions were taken of founder and  
 24 shareholder Dr. Johnson, CEO of ACH; Jessica  
 25 Young; and CFO of ACH, Jaime Lynch.

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1 Have you reviewed those deposition  
 2 transcripts?  
 3 **A Not that I recall.**  
 4 Q Okay. Have you reviewed the deposition  
 5 transcript of plaintiff's previously disclosed  
 6 expert, Jeffrey Keller?  
 7 **A No.**  
 8 Q Have you discussed with Ms. Makar whether you  
 9 would be providing opinions about whether there  
 10 was any inappropriate conduct by the  
 11 shareholders or corporate governing bodies, not  
 12 regarding health policies, but regarding  
 13 corporate operations? Was that topic discussed  
 14 between you and Ms. Makar?  
 15 **A I think it's safe to say no. I'm not even sure**  
 16 **what that means, but I don't recall any**  
 17 **discussions in that area.**  
 18 Q Okay. I'll walk you through a bunch of  
 19 examples of things that I'm referring to, and  
 20 then I'll come back at the end and follow up on  
 21 that question, because that was a fair  
 22 criticism of it.  
 23 In your review and preparation of  
 24 opinions in this matter, have you evaluated and  
 25 come to an expert opinion about whether ACH has

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1 engaged in inadequate capitalization of the  
 2 business?  
 3 **A No.**  
 4 Q Have you -- the same question, have you  
 5 developed an opinion about whether or not ACH  
 6 has ever failed to observe corporate  
 7 formalities?  
 8 **A No.**  
 9 Q Have you developed an opinion about whether ACH  
 10 has failed to issue stock?  
 11 **A No.**  
 12 Q Have you developed an opinion about whether ACH  
 13 has failed to make dividend payments?  
 14 **A No.**  
 15 Q Have you developed an opinion about whether ACH  
 16 has overlooked and permitted nonfunctioning of  
 17 any corporate officers or directors?  
 18 **A No.**  
 19 Q Do you have the opinion that ACH has engaged in  
 20 not creating or losing corporate records?  
 21 **A No.**  
 22 Q Have you developed an opinion that ACH has been  
 23 engaged in permitting the insolvency of any  
 24 debtor corporations?  
 25 **A No.**

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1 Q Have you come to the opinion that ACH has  
 2 engaged in inappropriate commingling of funds?  
 3 **A No.**  
 4 Q Have you come to the opinion that ACH has  
 5 engaged in diversion of assets from the  
 6 corporation to a shareholder or other person,  
 7 to the detriment of creditors?  
 8 **A No.**  
 9 Q Have you got the opinion that ACH has failed to  
 10 maintain arm's-length relationships among its  
 11 related entities?  
 12 **A No.**  
 13 Q Do you have the opinion about whether ACH is a  
 14 mere facade for the operation of dominant  
 15 shareholders?  
 16 **A No. And I don't believe I understand what that**  
 17 **means, but I have no opinions that even come**  
 18 **close to that.**  
 19 Q Okay. There is a separate corporation from ACH  
 20 that I mentioned I represent, and that is USA  
 21 Medical and Psychological Staffing, S.C.  
 22 That's a Wisconsin corporation. And so I'm  
 23 also going to ask you only three questions, but  
 24 they're a little wordier under Wisconsin law.  
 25 Do you have an opinion that any

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1 shareholders of USA Medical -- I'm going to  
 2 shorten it to USA Medical -- is engaging in  
 3 complete domination of finances, policies, and  
 4 business practice in relation to the provision  
 5 of medical care?  
 6 **A No.**  
 7 **Q** Do you have an opinion that -- well, actually,  
 8 these are series -- these are series elements,  
 9 so because you don't have that opinion about  
 10 the first element, I can relinquish the rest of  
 11 my time. I have no other questions, Doctor.  
 12 Thank you.  
 13 **A Thank you.**  
 14 MR. KNOTT: Doctor, I'm sorry, but I  
 15 have a couple more topics to follow up. I  
 16 understand we're running out of time. I'll try  
 17 to be brief.  
 18 EXAMINATION  
 19 BY MR. KNOTT:  
 20 **Q** Is it fair to say that chest pain is frequently  
 21 reported by patients who do not have a cardiac  
 22 issue?  
 23 MS. MAKAR: Objection. Form.  
 24 Improper hypothetical.  
 25 THE WITNESS: Yes, that occurs.

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1 BY MR. KNOTT:  
 2 **Q** It's a very difficult thing for providers  
 3 working in jails to deal with, isn't it?  
 4 MS. MAKAR: Objection. Form.  
 5 THE WITNESS: I'm not sure what you  
 6 mean by "difficult." I think it's a common  
 7 presentation or complaint by patients, and it  
 8 can be difficult if we go through all the steps  
 9 that we should and then the patient comes back.  
 10 But it's one of the more easily protocolized  
 11 potential medical emergencies in jails.  
 12 BY MR. KNOTT:  
 13 **Q** Have you ever seen any statistics about what  
 14 percentage of chest pain presenting in  
 15 emergency rooms and urgent cares is of  
 16 noncardiac origin?  
 17 **A Not that I recall sitting here today.**  
 18 **Q** And I want to ask you about the source of your  
 19 standard of care with respect to some of this.  
 20 You testified that testing of women  
 21 of childbearing years is absolutely fundamental  
 22 and part of the standard of care.  
 23 Is that a fair characterization of  
 24 your belief about this?  
 25 **A Yes.**

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1 **Q** And you believe it's a breach of the standard  
 2 of care of a reasonable jail medical provider  
 3 and jail if they do not test women for  
 4 pregnancy, right?  
 5 **A Yes. They -- the fact is, there may be people  
 6 that are pregnant or report being pregnant, but  
 7 pregnancy status and pregnancy history should  
 8 be assessed for every female patient of  
 9 childbearing age.**  
 10 **Q** And I think you said it was unheard of that a  
 11 jail would not test. Is that your opinion?  
 12 **A Well, I'm not saying I've never seen it missed.  
 13 I just haven't encountered jails that don't do  
 14 this, that don't get pregnancy history and  
 15 pregnancy status for women coming in the front  
 16 door.**  
 17 **Q** You feel very strongly that it is a widespread  
 18 protocol to test for pregnancy in women coming  
 19 into jails.  
 20 **A Well, as I just said --**  
 21 MS. MAKAR: Objection. Form.  
 22 THE WITNESS: -- assessing pregnancy  
 23 status and pregnancy history I believe is a  
 24 standard of care. I don't -- I'm not sure  
 25 I've --

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1 BY MR. KNOTT:  
 2 **Q** No. I'm talking about pregnancy tests. I'm  
 3 trying to make this short. I don't -- I'm  
 4 talking about not treatment of pregnancy. I'm  
 5 talking about just getting a pregnancy test in  
 6 people who don't know whether they're pregnant  
 7 or not, and that's what I --  
 8 **A I think that's a standard of care.**  
 9 **Q** And what would you -- what would you estimate  
 10 is the percentage of jails nationwide that have  
 11 protocol for testing every woman of  
 12 childbearing years?  
 13 **A I don't know.**  
 14 **Q** And the reason I'm asking this is because what  
 15 can we refer to as the source of your standard  
 16 of care in regard to that opinion?  
 17 **A I would give my opinion as a medical expert  
 18 based on my experience in correctional health.  
 19 I just haven't -- this is the first discussion  
 20 I think I've ever had where people are  
 21 questioning the need to identify who's pregnant  
 22 and who's not for women -- it's like a  
 23 tuberculosis test. I've just never encountered  
 24 people say or put forward the opinion that's  
 25 not something we have to know.**

53 (Pages 206 to 209)

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1 Q Do you review or regularly receive the American  
2 Journal of Public Health?  
3 **A It's been some time since I've received it.**  
4 Q Am I correct in understanding that the standard  
5 of care does not require a mortality review of  
6 a death in a jail if the death is assumed to be  
7 of natural causes?  
8 **A No. Absolutely not.**  
9 Q So every death should be considered and go  
10 through the mortality review process.  
11 **A Yes.**  
12 MS. MAKAR: Objection. Form.  
13 THE WITNESS: That's a shocking  
14 question.  
15 BY MR. KNOTT:  
16 Q And you agree that -- well, strike that.  
17 I'm going to share the screen and try  
18 to -- we prepared a document based on the  
19 materials that we received sometime in the  
20 afternoon, and I just want to make sure that we  
21 have this correct.  
22 And, Doctor, do you have something  
23 there that you can look at to tell us that  
24 these are, in fact, the records that you  
25 received?

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1 **A No. I would -- like I did before, I mean, I**  
2 **could figure this out in short order, but**  
3 **not -- I would need to turn off my camera or**  
4 **somehow disconnect.**  
5 Q You can't open a folder and tell us whether the  
6 list is the list that you -- of files that you  
7 reviewed?  
8 MS. MAKAR: Objection.  
9 THE WITNESS: No. I mean, the way I  
10 can -- one way I can do it is I'm going to try  
11 and count to see if there's 26 names there,  
12 because I know, just from memory, that I got 26  
13 names.  
14 BY MR. KNOTT:  
15 Q Well, I'm --  
16 **A I have no way of just sitting here and**  
17 **instantly doing that, no.**  
18 Q Okay. And I'll tell you, there are 26 names  
19 there and --  
20 **A You know what? Some names have been dropped or**  
21 **replaced. I recall affirmatively from my**  
22 **memory, and I'm confident in this, that I**  
23 **received a file that I opened -- or a folder**  
24 **that I opened, whatever term you want to use,**  
25 **and there were 26 files in there, and each were**

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1 **kind of alphabetical, and so this looks very**  
2 **much like those 26 to me.**  
3 Q And can we assume that you paid careful  
4 attention and reviewed very carefully each file  
5 that was sent to you?  
6 MS. MAKAR: Objection. Form.  
7 THE WITNESS: Well, some -- as I say,  
8 I think, in my report, I go into detail about  
9 my process, but some of these files were  
10 incomplete or didn't seem to have information  
11 that was going to be -- my lens in opening -- I  
12 opened every one of these -- was does the  
13 information in any of these files reflect the  
14 three core findings -- because the fourth is  
15 the mortality review -- the three core findings  
16 for Ms. Boyer's case.  
17 So my process was to open each of  
18 these and then look to see is there anything  
19 that indicates the presence of one of these  
20 three things.  
21 BY MR. KNOTT:  
22 Q But you would have looked at each file,  
23 correct?  
24 **A Yes.**  
25 Q And there's a few different categories there

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1 from a different production. There are five  
2 files from the Monroe County production. And  
3 are you able to confirm that you reviewed the  
4 records for each of these patients?  
5 MS. MAKAR: Do you want to mark this  
6 as an exhibit, Doug?  
7 MR. KNOTT: I will.  
8 MS. MAKAR: Okay.  
9 THE WITNESS: I don't know. I have  
10 to -- I'm looking up that name Rebeles. I  
11 don't know if that's -- that doesn't -- I don't  
12 see it in the report. So I guess I can. I  
13 would certainly be able to take this list that  
14 you've just presented me at the end of the  
15 deposition and compare it to the files I have  
16 on my hard drive, but as I sit here today, I'm  
17 not sure I can do that.  
18 BY MR. KNOTT:  
19 Q And do you recognize the names that are listed  
20 below under Plaintiff Production?  
21 **A I don't really -- I'm not sure I recognize**  
22 **those names. Just the Monroe County I**  
23 **recognize.**  
24 Q And my understanding is this came from --  
25 directly from the email we received sometime

54 (Pages 210 to 213)

<p style="text-align: right;">Page 214</p> <p>1 this afternoon of the listing of files reviewed</p> <p>2 by you.</p> <p>3 MR. KNOTT: And so I guess could I</p> <p>4 ask, Ms. Makar, that you confirm that this</p> <p>5 list -- I'll mark it -- is in fact the records</p> <p>6 that were reviewed by Dr. Venters?</p> <p>7 MS. MAKAR: Yes.</p> <p>8 MR. KNOTT: Okay.</p> <p>9 BY MR. KNOTT:</p> <p>10 Q And, Dr. Venters, do you have -- if I highlight</p> <p>11 this Brandon Lessman for an example, do you</p> <p>12 have the capacity, as you sit there today, to</p> <p>13 open that file?</p> <p>14 A No. It's the same problem when we talked about</p> <p>15 another patient. I'm pretty confident I</p> <p>16 recognize that name, I think from the report,</p> <p>17 but I can't open the medical records as I sit</p> <p>18 here.</p> <p>19 Q And I guess tell me, again, why that is again.</p> <p>20 A I have to -- I mean, I could disconnect my</p> <p>21 camera, and then it's just a US -- the number</p> <p>22 of USB ports but --</p> <p>23 Q I got it. Okay.</p> <p>24 I've located the -- I want to work</p> <p>25 with the exhibit numbers, but I think we can do</p>	<p style="text-align: right;">Page 216</p> <p>1 (Concluded at 3:52 p.m.)</p> <p>2 (Exhibits 109 through 116 were</p> <p>3 submitted electronically to the reporter</p> <p>4 following the conclusion of the deposition and</p> <p>5 marked for identification. The original</p> <p>6 exhibits were attached to original transcript;</p> <p>7 electronic copies provided with transcript</p> <p>8 copies.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 215</p> <p>1 that off the record and have a stipulation that</p> <p>2 the exhibits that we've reviewed will be marked</p> <p>3 according to a sequence.</p> <p>4 That's all I have for now, Doctor.</p> <p>5 THE WITNESS: Thank you.</p> <p>6 MR. JONES: I do not have anything</p> <p>7 more.</p> <p>8 MR. CASSERLY: I have no follow-up.</p> <p>9 MS. MAKAR: I have one follow-up</p> <p>10 question, Doctor.</p> <p>11 EXAMINATION</p> <p>12 BY MS. MAKAR:</p> <p>13 Q So now having been asked another set of</p> <p>14 questions, have any of your opinions in your</p> <p>15 report changed?</p> <p>16 A No.</p> <p>17 MS. MAKAR: Thank you.</p> <p>18 MR. KNOTT: Okay. Let's go off the</p> <p>19 record, and if we need to add to the record</p> <p>20 about the exhibits, we can do that, but --</p> <p>21 THE WITNESS: Am I able to leave?</p> <p>22 MR. KNOTT: I think we can cut you</p> <p>23 free.</p> <p>24 THE WITNESS: All right. Thank you.</p> <p>25 MR. KNOTT: Thanks for your time.</p>	<p style="text-align: right;">Page 217</p> <p>1 STATE OF WISCONSIN )</p> <p>2 ) SS</p> <p>3 MILWAUKEE COUNTY )</p> <p>4 I, JULIE A. POENITSCH, RPR/RDR/CRC,</p> <p>5 Certified Realtime Reporter, and Notary Public in</p> <p>6 and for the State of Wisconsin, do hereby certify</p> <p>7 that the preceding remote Zoom deposition was</p> <p>8 stenographically reported by me and reduced to</p> <p>9 writing under my personal direction.</p> <p>10 I further certify that said deposition was</p> <p>11 taken before me, with all parties appearing via Zoom</p> <p>12 Videoconference, on the 9th day of January, 2025,</p> <p>13 commencing at 9:02 a.m. and concluding at 3:52 p.m.</p> <p>14 I further certify that I am not a relative</p> <p>15 or employee or attorney or counsel of any of the</p> <p>16 parties, or a relative or employee of such attorney</p> <p>17 or counsel, or financially interested directly or</p> <p>18 indirectly in this action.</p> <p>19 In witness whereof, I have hereunto set my</p> <p>20 hand and affixed my seal of office at Milwaukee,</p> <p>21 Wisconsin, on this 27th day of January, 2025.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>22 JULIE A. POENITSCH - Notary Public</p> <p>23 In and for the State of Wisconsin</p> <p>24</p> <p>25 My commission expires January 25, 2027.</p>

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